

1 U.S. DEPARTMENT OF EDUCATION
2 PRESIDENT'S COMMISSION ON
3 EXCELLENCE IN SPECIAL EDUCATION

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1 P R O C E E D I N G S

2 MR BRANSTAD: Good morning. I am Terry
3 Branstad, the chairman of the President's Commission on
4 Excellence in Special Education. I welcome you to the
5 second Commission meeting and the first of its eight
6 regional hearings. Before we open our hearing and listen
7 to our witnesses, I want to briefly describe the
8 Commission, its mission, and its objectives.

9 The Commission was establish last October by
10 the executive order of President Bush. His goal in
11 establishing the Commission was a simple one: "No child
12 left behind." This has become a familiar and important
13 message.

14 "No child left behind" was the guiding
15 principle of the newly reauthorized Elementary and
16 Secondary Act. Now, it comes into play with the work of
17 this Commission.

18 Why? When President Bush says, "no child left
19 behind" he means children with disabilities most of all
20 because they are the children who most often are left
21 behind. This Administration is committed to the
22 proposition that every child can learn, and so is this

1 Commission.

2 At the outset, I must reaffirm that the
3 Commission's work is not designed to replace the upcoming
4 reauthorization of the Individuals with Disabilities
5 Education Act.

6 Rather, the report we produce and issue this
7 summer will provide vital input into not only the
8 reauthorization process but also the national debate on
9 how best to educate all children.

10 When many of us think of Federal reports we
11 think of dense volumes with the type of prose Mark Twain
12 labeled "chloroform in print." We don't want that.

13 I hope the Commission will bring forward a
14 dynamic, informative report that will make a real
15 contribution to our nation's education debate.

16 I want a report that parents and classroom
17 teachers can use and understand - a report that's readable
18 and interesting.

19 My goal for the Commission's work is simple: I
20 want us to find out "what works" best for educating
21 children with disabilities, not what works best for the
22 Federal, state and local agencies.

1 In order to learn what works best, we will
2 listen to the experts; look at research; talk with
3 parents, teachers and children; and think broadly and
4 creatively.

5 The President has charged us with providing
6 findings and recommendations in the following nine areas:

7 1. Cost-effectiveness. The Commission will
8 examine the appropriate role of the Federal Government in
9 special education programming and funding. The Commission
10 will look at those factors that have contributed to
11 growing costs of providing special education services.

12 2. Improving Results. The Commission will
13 examine how to best use Federal resources to improve the
14 success of children and youth with disabilities.

15 3. Research. Understanding what works and
16 what doesn't work based on sound research data is critical
17 to making the best use of Federal resources.

18 The Commission will recommend areas to target
19 further research funding and to synthesize what we already
20 know works and doesn't work in educating children,
21 particularly those with learning and other cognitive
22 disabilities.

1 4. Early Intervention. Early identification
2 of First, Second, and Third Grade children showing
3 problems in learning can mean the difference between
4 academic and developmental success or a lifetime of
5 failure.

6 5. Funding. Opening the money spigot without
7 building a better system focused on results and
8 accountability will not solve the problems facing special
9 education today. We must develop fresh ideas about how we
10 can better spend Federal resources to improve special
11 education.

12 6. Teacher Quality and Student Accountability.
13 There are manifold issues in this area. We have a
14 shortage of well-trained special educators, we have a high
15 turnover rate of those that do enter the field, and we
16 need to close the gap between research and teacher
17 training to improve how well we serve children with
18 disabilities.

19 7. Regulations and Red Tape. The Commission
20 will study the impact of Federal and state laws and
21 regulations and how these requirements support or obstruct
22 the ability of schools to better serve children with

1 disabilities.

2 There is more than can be done to reduce the
3 amount of time special education teachers spend on
4 paperwork instead of teaching.

5 8. Models. We will look beyond Washington to
6 find alternatives to the standard way of doing things.

7 9. Federal versus Local Funding. The
8 Commission will review the experiences of state and local
9 governments in financing special education.

10 Our purpose this week in Houston is to listen
11 to the experts and talk with educators and the public
12 about what's effective in special education.

13 Over the next two-and-a-half days, we will
14 begin to learn what's effective by:

15 1. Hearing from some of the nation's foremost
16 experts in reading. Several of these reading experts are
17 based in Texas, which is largely why we decided to hold a
18 hearing here.

19 2. We will examine research on early
20 intervention and identification of children who may need
21 special education services.

22 3. We will discuss alignment of special

1 education services to current state accountability
2 systems.

3 4. We will learn about the relationship
4 between student achievement and due process.

5 5. We will visit schools in the Houston
6 Independent School District.

7 As you can see, this is a results-oriented
8 Commission that is truly concerned about ensuring that no
9 child is left behind. In order to do that, we need your
10 help. We need your suggestions. Tell us what works.
11 Show us the models.

12 Thank you for your interest in our work. We
13 appreciate everyone who has taken the time to attend our
14 hearing today.

15 We will now open the first hearing of the
16 President's Commission on Excellence in Special Education.

17 I'm going to first ask C. Todd Jones, our
18 executive secretary, to give us the revised schedule, and
19 then I'll introduce our first panel.

20 MR. JONES: If all of you could take a look
21 under Tab A, which is our agenda, and on page 2 is the
22 agenda for tomorrow. There's a slight revision to that

1 which I will explain.

2 We have reports on school visits which is set
3 to start at 1:30. The revised start time if 1:15. The
4 panel reviews will be at 2:00; the break will be at 2:50;
5 the panel reviews will return at 3:20; and we will adjourn
6 at 4:10.

7 You'll notice it says that under the panel
8 reviews Commissioners will discuss their views on the
9 reports with 30 minutes allotted for each, and we're going
10 to cut that back to 25.

11 The reason for that is that, for those of you
12 that are attending the rodeo, we are meeting the busses
13 promptly at five o'clock in front of the hotel. If you
14 miss the five o'clock bus, it's my understanding it's a
15 very, very long walk to the Astrodome. So I just want to
16 make that part of it clear.

17 (General laughter.)

18 MR. JONES: That's all for the revised
19 schedule. Governor, speakers.

20 MR BRANSTAD: We have two very distinguished
21 presenters. The first is Daniel J. Reschly, Ph.D. Dr.
22 Daniel Reschly is the Chair of the Department of Special

1 Education and a Professor of Education and Psychology at
2 Vanderbilt University's Peabody College.

3 From 1975 to 1998, he directed the Iowa State
4 University School of Psychology Program, which is in Ames,
5 Iowa, and that was -- during most of that time I was
6 governor. So he told me that he lived under my
7 administration for quite a while.

8 And during his distinguished career at Iowa
9 State, he achieved the rank of Distinguished Professor of
10 Psychology and Education.

11 Reschly earned graduate degrees at the
12 University of Iowa and Iowa State and the University of
13 Oregon and served as a school psychologist in Iowa,
14 Oregon, and Arizona.

15 He has published extensively on the topics of
16 special education system reform, overrepresentation of
17 minority children and youth, learning disability
18 classification procedures, and mild retardation.

19 Reschly served as the National Academy of
20 Sciences Panels on Standards-based Reform and the
21 Education of Students with Disabilities, and is a member
22 of the Minority Overrepresentation in Special Education,

1 Chair of the Disability Determination in Mental
2 Retardation, and Co-Director of the National Research
3 Center on Learning Disabilities.

4 His awards include the NASP Lifetime
5 Achievement Award, three NASP Distinguished Service
6 Awards, the Stroud Award, appointment to Fellow of the
7 American Psychological Association and the American
8 Psychological Society, Charter Member of the Iowa Academy
9 of Education, and 1996 Outstanding Alumnus, College of
10 Education, University of Oregon.

11 Dr. Reschly lives in Nashville with his wife
12 and three children.

13 Our other distinguished presenter is Sharon
14 Vaughn, Ph.D.

15 Dr. Sharon Vaughn is the Mollie Villeret Davis
16 Professor in Learning Disabilities and the Director of the
17 Texas Center for Reading and Language Arts in the College
18 of Education at the University of Texas at Austin.

19 Dr. Vaughn published more than 120 articles in
20 refereed journals such as *Exceptional Children*, *Teaching*
21 *Exceptional Children*, and *Journal of Learning Disabilities*
22 and has written several books on instructional methods for

1 general and special education teachers.

2 Through her research, writing, and professional
3 activities, Vaughn maintains a commitment to improving
4 outcomes for students with special needs and their
5 families with emphasis on minority children and their
6 families.

7 For the past six years, she has coordinated a
8 large-scale reading intervention research project in
9 Hialeah, Florida that has served as a model for
10 implementing research-based practices for the State of
11 Florida.

12 Vaughn is recognized for her ability to
13 translate research into practice and receives numerous
14 requests from higher education and school districts to
15 assist with the implementation of research practices.

16 She directs an evaluation project in
17 coordination with the States of Texas and Florida to
18 identify model school sites that are implementing
19 successful pilot projects and other programs for students
20 with disabilities.

21 Vaughn has directed several additional school-
22 based research projects including a large-scale

1 investigation of teachers' planning and instruction for
2 students with special needs in the general education
3 classroom.

4 She has been highly interested in the extent to
5 which instructional practices are maintained by targeted
6 teachers and sustained by the school.

7 Sustainability is a critical aspect of her last
8 four years of research and resulted in research on the
9 effectiveness of professional development practices.

10 I'll turn it over to Dr. Reschly first.

11 DR. RESCHLY: Thank you very much, Governor and
12 honorable Commissioners. It's my pleasure to appear
13 before you today representing the National Research
14 Council. Thank you for that very kind introduction.

15 And I think a much more appropriate
16 introduction would be, Here's Dan Reschly. He's the
17 author of a number of widely disregarded journal articles.

18 (General laughter.)

19 DR. RESCHLY: Today I'm representing a
20 committee much like the committee that many of you serve
21 on. It was a committee that had a great deal of
22 diversity. It was appointed subsequent to Congressional

1 legislation that charged the National Academy of Sciences
2 with investigating and issuing a report on minority
3 overrepresentation in special education.

4 Our charge was expanded then to include gifted
5 as well, but most of what I say today will apply merely to
6 special education, since that is the focus of our work.

7 The committee was a diverse group of
8 individuals who represented a variety of academic
9 disciplines, professional roles. There were a total of 15
10 persons on the commission.

11 We reached a unanimous set of recommendations,
12 that is, a set of recommendations that were unanimously
13 supported. And I will try to go over those
14 recommendations today, as well as provide a brief
15 rationale for each of the recommendations.

16 Sharon and I have divided our time by 25
17 minutes and 20 minutes. So if you want to pull a trap
18 door on me or remind me, I ought to be out of here by five
19 after 9:00, and I shall endeavor to do so.

20 Today the plan in briefing you is to first talk
21 about disproportionality facts and some data on
22 disproportionality; secondly to talk about biological and

1 social bases.

2 Third, and perhaps the strongest message from
3 this committee, is the importance of early prevention and
4 intervention; fourth, to talk about general education
5 roles and recommendations; fifth, teacher quality issues;
6 sixth, special education reform and recommendations; and
7 then, the last, research and data collection
8 recommendations.

9 Incidentally, these slides appear under Tab D
10 of your briefing or your agenda book, toward the end of
11 Tab D, I believe it is.

12 First some disproportionality facts and
13 figures. This was a great deal more difficult, that is,
14 to get accurate information on this, than it should have
15 been, to be perfectly blunt about it.

16 In the numerator for these figures we have all
17 children with disabilities age six to 21; in the
18 denominator we have the number of school-aged children.
19 So these percentages are slightly elevated because the
20 numerator includes a broader age range than the
21 denominator, but it's only slightly elevated.

22 The question is, is there disproportionality?

1 Clear answer, yes, there is substantial
2 disproportionality.

3 Now, the representation of the five, quote,
4 official groups that are recognized in the Census appears
5 on the slide.

6 The participation in special education by group
7 varies from a low of 5.3 percent by Asian Pacific Islander
8 groups to a high of 14.3 percent of African-American
9 students. This is a risk statistic in that it refers to
10 the proportion of persons in the general student
11 population who are participating in special education.

12 Note that Hispanic students are slightly
13 underrepresented compared to the white rate. These are
14 data for the national population.

15 In discussions of disproportionality data there
16 is often confusion between what is called the composition
17 index and what is called the risk index.

18 The composition index is the proportion in the
19 special education category by some kind of group. And
20 I'll give an example in a moment.

21 The risk index is the proportion of a group
22 that is in special education or in a particular special

1 education category.

2 Now, to make that understandable, consider this
3 analogy. Virtually all of you are aware of the gender
4 composition of public school educators. Something on the
5 order of 75 to 80 percent of all public school educators
6 are women. That's the composition index. What is the
7 composition of public school educators in terms of gender?
8 Overwhelmingly women, about 80 percent.

9 Now consider how many women are public school
10 educators. I hate to call that the risk index, but I have
11 to do that to make this analogy work. Less than 2
12 percent, it's about 1-1/2 percent of all women are
13 employed in the public schools.

14 Risk versus composition. It's very important
15 that those two are not mixed up in this discussion.

16 Disproportionality categories, three
17 problematic categories. Mental retardation: the
18 composition of students in mental retardation in special
19 education is 35 percent African-American compared with the
20 percent of African-Americans in the general population of
21 17 percent.

22 The critical question -- now, that's the

1 composition. The critical question is, what is the risk
2 to an individual African-American student of being in
3 mental retardation? The risk is 2.6 percent. That is,
4 2.6 percent of all African-American students are in the
5 category of mental retardation.

6 Note this rate compared to the white rate of
7 1.1 percent; it's 2.4 times larger. And this is the
8 largest degree of disproportionality that occurs across
9 any of the special education categories. And there are no
10 other groups overrepresented in mental retardation.

11 Across all of the categories the Asian Pacific
12 Islanders are generally markedly underrepresented.

13 In emotional disturbance, the composition of
14 emotional disturbance is about 26 percent of African-
15 American origin versus 17 percent African-Americans in the
16 general population.

17 The risk, 1.6 percent of all African-American
18 students are in emotional disturbance versus 1 percent of
19 white students. The African-American rate is 1.6 times
20 the white rate.

21 Finally, in learning disabilities, where Native
22 American Indian students are overrepresented, 7.3 percent

1 under risk of Indian students are in LD versus 6.1 percent
2 of white students. Native American Indians are 1.2 times
3 more likely to be in LD. And no other group is
4 overrepresented in LD.

5 So there are three problematic categories in
6 special education: emotional disturbance, mental
7 retardation, where African-American are overrepresented;
8 and learning disabilities, where Native American Indian
9 students are overrepresented.

10 Now, the overrepresentation occurs primarily in
11 what is called the high-incidence disabilities. These are
12 disabilities that are recognized after school entrance.

13 And what I have, the top line is the overall
14 disability incidence rate across the five groups.

15 The second line, that appears in red on the
16 slide, is for high-incidence disabilities, and those are
17 the disabilities that occur at 1 percent or greater
18 prevalence in the general education population. That
19 includes speech and language impairments, mental
20 retardation, learning disabilities, and emotional
21 disturbance.

22 The bottom line of the low-incidence

1 disabilities, those are nine disabilities that all occur
2 at very low incidence, well under 1 percent.

3 Now, the key in this slide is to show that the
4 disproportionality occurs almost exclusively with the
5 high-incidence disabilities, not with the low-incidence
6 disabilities.

7 Disproportionality conclusions, that first
8 question for our briefing, the largest overrepresentation
9 occurs in mental retardation with African-American
10 students, also overrepresentation in emotional
11 disturbance.

12 There is no overrepresentation in other
13 categories. Asian Pacific Islander students are markedly
14 underrepresented.

15 And then, let me emphasize the seventh point on
16 this slide. There are great variations among the states.
17 All of the generalizations I have made for you refer to
18 national trends. State variations are tremendously
19 complex.

20 Now, one of the issues I think before this
21 committee is, does overrepresentation constitute or
22 contribute significantly to overidentification? That is,

1 identifying many more students in special education than
2 should be so identified.

3 I analyzed this as best I could with the
4 available data. And the conclusion clearly is that
5 overrepresentation contributes only slightly to
6 overidentification.

7 In fact, if you put the two groups that are
8 overrepresented, Native American Indians and African-
9 Americans, if you put their rate of representation to
10 exactly the white rate, it makes a slight difference, that
11 is, changing the national incidence from 11.96 to 11.71
12 percent, or it declines by less than a half percent.

13 Now, that's not trivial. Let me emphasize,
14 though, that's not trivial, because there are significant
15 numbers of students involved. A total of 178,000
16 students, their status would change if it went to the
17 national rate.

18 We then looked at, is overrepresentation
19 discriminatory, and should we expect equal representation
20 by all groups? Very difficult questions. And we don't
21 come to any ultimate conclusion on those issues. In part
22 the last issue depends on the sociopolitical kind of

1 analysis, it seems to me.

2 We looked at biological and social differences
3 among groups to see whether those differences contributed
4 to overrepresentation. The answer on both classes of
5 variables is yes.

6 There are biological differences having to do
7 with greater exposure to pre- and postnatal toxins,
8 greater proportions of premature births, poor health care,
9 other kinds of micronutrient deficiencies, et cetera that
10 do contribute to creating or limiting the development of
11 individuals that further translates very possibly into
12 overrepresentation.

13 Second, are there social bases? Yes. There
14 are less supportive environments in homes marked by
15 poverty on average -- I'm not saying all homes that are in
16 poverty, but on average -- less supportive environments
17 for language and cognitive development, poor preparation
18 for reading and academic achievement generally.

19 There are substantial differences at the
20 Kindergarten age, that is, upon entrance to Kindergarten.
21 Here we cite a Federal report published in the year 2000
22 on the Kindergarten year collecting data in 1998.

1 Here are differences among various groups with
2 regard to print familiarity, early precursors of reading
3 skills. And as you see, we have a contrast of children
4 who came to school with no skills versus three skills.
5 And it had to do with like recognizing letters of the
6 alphabet, being able to say the letters of the alphabet,
7 and so on.

8 We see rather substantial differences across
9 the groups. White and Asian groups come together with
10 very similar skills versus other minority groups with
11 lower levels of those skills. So there are differences at
12 the beginning.

13 Similarly, there are differences in behavior,
14 particularly rates of aggressive behavior at the beginning
15 of Kindergarten.

16 Our very strong argument is that these
17 differences do not justify continued differences all the
18 way through school. What these differences point to is
19 how essential early intervention is. And many of the
20 committee's recommendations speak to that.

21 We note that slight differences on average
22 scores can produce large differences at the extremes in

1 both the identification of the gifted and in the
2 identification of children with special needs. So a
3 three- or four-point difference in average scores under
4 distribution can have a very substantial effect.

5 At the extremes of the distribution, here's a
6 data regarding low birth weight, which is more common
7 among African-American families.

8 So to summarize, yes, there is
9 disproportionality; yes, biological and social
10 differences, particularly those associated with poverty,
11 probably contribute to this disproportionality.

12 Next question: Do schooling differences
13 contribute to disproportionality?

14 Here the committee looked at data that shows
15 there are differences in resources in schools with high
16 and low income students; differences in teacher education
17 experiences and training in high and low poverty schools;
18 differences in curriculum.

19 For example, high poverty schools have very few
20 AP courses, advanced placement courses.

21 In low income schools there is in fact a
22 greater need for highly systematic instruction and strong

1 classroom organization and behavior management, and it is
2 just those schools where teachers are less likely to have
3 training and skills in delivering those kinds of
4 interventions.

5 We looked at the role of special education
6 referral and assessment. We found very complex and
7 confusing but limited evidence in that realm. This is an
8 area that's been discussed for 40 years, and there's
9 virtually no evidence on whether or not, for example, are
10 African-American teachers less likely to refer African-
11 American males due to behavioral difficulties?

12 There is a huge amount of speculation about
13 that. There are a lot of strong statements made in the
14 literature, but virtually no data. We need data on those
15 issues.

16 Simulated studies suggest there are teacher
17 biases. These are studies in which a teacher is given a
18 description of a student, and you contrast different
19 groups.

20 In one set of descriptions the students' race
21 is characterized as white or Asian. In another set of
22 descriptions the students' race is characterized as

1 minority, African-American or Hispanic. And you have the
2 same information in the descriptions.

3 Teachers are more likely to say, given the same
4 information, they would refer the Hispanic or African-
5 American student. That suggests bias.

6 In actual studies of kids that are referred,
7 you find consistently that African-American students have
8 more difficult and more severe achievement problems
9 consistently. So it's not as if the kids that are
10 actually being referred don't have serious educational
11 problems. The same is true in studies of minority
12 students that are actually in special education.

13 We asked the question, is special education
14 differentially beneficial?

15 Again we had little evidence to cite there. We
16 do note that minority students are more likely to be
17 served in more restrictive environments.

18 So minority students classified as learning
19 disabled, in the same state, the minority students are
20 more likely to be in self-contained special classes,
21 although that varies a lot by state.

22 So they're more likely to be in more

1 restrictive environments. And self-contained special
2 classes are known to be problematic, that is, the
3 effectiveness data there are questionable.

4 Most of all we know that the distribution and
5 implementation of effective interventions is not adequate.

6 Our overall conclusion, and maybe the most
7 important conclusion the committee made, is, and I quote
8 from the executive summary, "There is substantial evidence
9 with regard to both behavior and achievement that early
10 identification and intervention is more effective than
11 later identification and intervention."

12 We talked about prevention and early
13 intervention recommendations, particularly in terms of
14 academic skills, and I'm not going to go over those. I'm
15 going to skip those, because Sharon, Professor Vaughn,
16 will talk about those in some considerable detail.

17 This committee, this panel, strongly recommends
18 early childhood programs. We note those programs need to
19 be intense and sustained, they need to provide direct
20 learning experiences in a planned curriculum, and the
21 services need to be comprehensive.

22 We cite data in the report -- and some of it

1 here is cited -- that good early childhood education
2 programs do prevent special education referral and
3 placement.

4 Some of the better programs dealing with high,
5 high risk families, extremely high risk families, reduce
6 special education participation by very substantial
7 amounts.

8 We would argue, based on our analysis, that
9 those programs are cost-effective.

10 Given the costs of special education for eight,
11 nine, ten years in the public schools versus the costs of
12 two or three years of high quality early childhood
13 education, we believe that intervention is both cost-
14 effective as well as extremely humane in that it helps
15 realize potential that otherwise might not be expressed.

16 Some of our general education recommendations:
17 better integration of the systems; improved instruction;
18 and perhaps more important, multi-tiered academic and
19 behavioral interventions prior to special education
20 placement, and that's really critical.

21 And Sharon will talk about the multi-tiered
22 academic intervention, so I'm going to skip that.

1 We emphasized universal screening for academic
2 skills and for social behavioral skills, improved teacher
3 quality.

4 And perhaps our most controversial
5 recommendations have to do with changing conceptions and
6 criteria for disabilities, and I'll get to that in just a
7 moment.

8 I'm going to skip that one, because it will be
9 covered later; same for that.

10 Unlike most other panels, we also looked at
11 behavior. What we found was that children get referred
12 typically not just because of reading problems. They get
13 referred because of reading problems that are complicated
14 by classroom behaviors that are difficult to deal with.

15 We know that because there are a lot of girls
16 that have very poor reading who never get referred because
17 they're quiet, docile, meet social role expectations.

18 Little boys, however, who can't read also tend
19 to be obnoxious. And if you're both obnoxious and not
20 learning to read, you have a real high probability of
21 getting referred.

22 Now, the critical part is to provide effective

1 behavioral interventions first as part of a class -- I'm
2 sorry -- part of a schoolwide positive discipline program
3 that translates further into good classroom organization
4 and positive, effective behavior management. That makes a
5 huge difference, it turns out, in outcomes for kids.

6 Our best evidence on that were studies by Shep
7 Kellam in the Baltimore Public Schools. I urge you to
8 read those studies. I'll be very happy to give you the
9 references to them. But it shows the very important
10 effects of classroom management, classroom organization in
11 the First Grade on later incidence of serious behavior
12 issues.

13 We'll skip those. Sharon will cover that.

14 We talked a lot about improving teacher
15 quality. I don't know that we have a easy answer to that.
16 But at a minimum, we believe that teachers need to know
17 effective academic intervention strategies and effective
18 classroom management and organization.

19 We suggest a national advisory panel be
20 convened in an institutional environment that is protected
21 from political influence to study the quality and currency
22 of programs that now exist to train teachers for general,

1 special, and gifted education, something like Flexner
2 Report that was done in medical education about 100 years
3 ago, something that would specify very, very clearly
4 competencies that teachers need to master and then has the
5 teeth to make sure those things occur.

6 Special ed recommendations. Note that our
7 recommendations are principally in relation to high-
8 incidence disabilities. That constitutes 85 percent of
9 persons with disabilities. Virtually all of them are
10 identified after school entrance and are identified due to
11 behavioral and academic difficulties.

12 The current system uses eligibility criteria
13 that are, first, costly to implement; secondly, the
14 eligibility assessment has little to do with
15 interventions; and third, the disability categories per se
16 have little to do with effective treatments.

17 It's another way of saying that our current
18 disability identification system is unreliable, invalid,
19 and expensive.

20 We recommend -- or further, we note that most
21 state regulations require an IQ discrepancy for LD
22 determination.

1 We jumped on top and beat up that idea, just as
2 others have recently. The criterion does not define
3 students with unique needs, et cetera. And there will be
4 a discussion about that later this morning. And I defer
5 to those scholars, who will do a very nice job with that.
6 We're especially concerned with the wait-to-fail effect.

7 So we recommend that special education
8 eligibility focus on interventions, that it use non-
9 categorical conceptions of disabilities or markedly
10 changed criteria for the current high-incidence
11 disabilities.

12 No IQ test would be required, and the results
13 of an IQ test would not be the primary criterion.

14 We have one state that has done this, the State
15 of Iowa. That was done during Governor Branstad's
16 leadership. We worked very closely with his office, the
17 Iowa Department of Education, universities, regional
18 education and local education agencies.

19 And we produced a system that does not use any
20 IQ test, none, nada, zero, that provides services on a
21 non-categorical basis, focusing, you are using direct
22 measures of skills in natural environments that translate

1 into interventions.

2 The criteria have to do with insufficient
3 response to high quality interventions. And I believe
4 you'll talk about that, too. So let me move forward and
5 skip that, although I love talking about that. But
6 somebody is about to drop a trap door on me.

7 We also made some recommendations regarding
8 data collection and monitoring. We urge combining the OCR
9 and the OCEP data collection procedures. And I understand
10 there are some efforts to do that, but there needs to be
11 strong leadership to make sure that happens, to make sure
12 that we get the right information with the least amount of
13 intrusion on the schools as we possibly can.

14 We also urge convening a national advisory
15 panel to design a national longitudinal study of
16 disproportion in special education and gifted programs. I
17 emphasize the longitudinal study.

18 There were many, many questions we raised
19 during the panel's discussions, and over and over we found
20 the data are not there to answer those questions.

21 Finally, we talked a lot about reducing
22 research -- Sharon, do you want to come on up and get

1 started, and I'll unhook my computer -- reducing the
2 research to practice gaps.

3 There is a huge difference that we're all very
4 concerned about with respect to the difference between
5 what is known and what is typically implemented in the
6 public schools.

7 To summarize, then, we found no easy,
8 straightforward, simple solutions. We have been
9 criticized in various professional organizations by not
10 coming up with a simple solution to overrepresentation.

11 There is no simple solution that we could find.
12 We would apply Einstein's dictum: Explanations should be
13 as simple as possible, but no simpler. And I think we did
14 the very best that we could with the available evidence.

15 There are a multiplicity of possible
16 explanations for overrepresentation, all of which are
17 plausible and probably all of which contribute.

18 And I will turn it over to Sharon.

19 DR. VAUGHN: Good morning. Thanks for the
20 opportunity to be here today and to speak to you.

21 We managed to transfer computers in less than a
22 minute. I think that's noteworthy. Thanks, Dan.

1 I'm going to speak specifically about
2 prevention and early identification.

3 This again is a report from the same committee.
4 And one of the primary recommendations of this committee
5 is that states adopt a universal screening and multi-
6 tiered intervention strategy to enable early
7 identification and intervention for children at risk for
8 reading problems. This same recommendation also holds for
9 students with behavior problems.

10 And the rationale, if you think back about Dan
11 Reschly's presentation, the rationale for this
12 recommendation is that if there is disproportionate
13 representation, the important issue isn't how to get the
14 same number of children representing each ethnic group in
15 special education. The goal is to have appropriate
16 education for all students as early as possible.

17 And the best way to do that -- and we know how
18 to do this -- is through early identification.

19 We are further along in the area of reading
20 than we are in behavior, but behavior has resources right
21 now to examine issues with respect to screening and early
22 intervention, and it is something that states can and this

1 committee believes should do.

2 And I think that it will be hopefully more
3 persuasive to the Commissioners represented here today to
4 appreciate how difficult it is to get 15 people from
5 around the country with varying points of view on this
6 subject to agree on this.

7 So I hope the Commission sees that and notes
8 that that gives a lot more strength and I think validity
9 to the finding.

10 The first way to implement this recommendation
11 is that all students should be screened early and probably
12 right around the middle to the end of Kindergarten or
13 early First Grade.

14 Especially with the behavior measures, we're
15 thinking that we can get better identification maybe
16 around First Grade, and monitor it at least through Second
17 Grade on indicators that predict later reading
18 difficulties.

19 We do have a model for that. It's represented
20 in the NRC report. And actually, the screening measure
21 that we represent in that report is the Texas Primary
22 Reading Inventory. And Jack Fletcher is here. If people

1 have some questions about that, he can certainly answer
2 them.

3 Those students identified through screening as
4 at risk for reading problems -- and this is also true for
5 behavior problems, but I'm going to focus specifically on
6 reading problems just because the research base is even
7 stronger in that area than in the behavior area, though it
8 holds for both of them, I want to keep saying that --
9 should be provided with supplemental small group reading
10 instruction daily, and their progress should be closely
11 monitored.

12 In other words, I'm going to show you a three-
13 tier model a little later on. But the visual image you
14 should have is that we have core reading programs that we
15 give to every single student. Right? And we call those
16 our core or our primary reading instruction.

17 If we're able to get those as strong as they
18 can and should be, then students who fail to make adequate
19 progress in those programs can be provided with
20 supplemental instruction. And that's the recommendation
21 here.

22 Now, to give you an idea about how that might

1 look, I said that we have this sort of core reading
2 program that every Kindergarten teacher -- every
3 Kindergarten student gets, or we hope they get -- some
4 Kindergarten classrooms are a little further behind others
5 in providing appropriate early reading instruction --
6 First Grade, Second Grade, Third Grade.

7 And that's basically our primary intervention.
8 What we can do is, based on progress monitoring
9 benchmarks, we can provide assessments or screening for
10 all of these students. And these screenings can be
11 relatively short. A long screening is 15 minutes. A
12 short screening can be a couple of minutes. And they're
13 very accurate.

14 And these early screenings can be administered
15 by classroom teachers. We don't need to hire a bunch of
16 highly trained personnel to do this. With fairly minimal
17 training, classroom teachers can give these screening
18 measures. And in fact, it's actually important that
19 they're the ones who give it, because what we want is the
20 information in the hands of the classroom teachers.

21 So then what you can do is you can say, Okay,
22 we monitor their progress. And if the students in the

1 class -- particular students in the class are doing well,
2 you can see the mastery level, they're doing fine, we just
3 call them grade level learners or above grade level
4 learners, and we're happy about their progress.

5 And we just keep on -- we watch them, but we
6 don't have to monitor their progress with the same
7 vigilance we would other students.

8 Now, what about students who are not meeting
9 those benchmarks as we monitor their progress? We think
10 of those as struggling learners or students who need some
11 additional support.

12 Now, with those students one of the first
13 things we want to do is provide their continued primary
14 intervention. And I put that in there. It's because what
15 we don't want to do is take these struggling learners in
16 First or Second Grade and take them out of their core
17 reading program.

18 We want to make sure -- I mean, assuming, of
19 course, that their core reading program is good. Let's
20 assume that. We want them to continue to get their core
21 reading program. But in addition to that, we want a
22 secondary intervention or a supplemental intervention.

1 And just to kind of give you a working model --
2 not the only model, but one that you can think about --
3 this secondary intervention could take place for about ten
4 weeks or about 50 sessions if it's done daily, and that
5 would be about 25 hours of supplemental instruction.

6 And we know at that point, from some of the
7 research that we've done, that after about ten weeks of
8 instruction we'll have about 25 percent of the students
9 that are at risk no longer needing any supplemental
10 instruction. So they'll continue with their primary
11 instruction with no additional support.

12 We know we'll have a large number of students,
13 approximately 60 to 70 percent -- it depends a lot on
14 issues that Dan talked about earlier like poverty and what
15 students bring to school -- but we'll have a large number
16 of students that will need an additional ten weeks of
17 supplementary instruction. Okay?

18 So we think of these as students who need
19 extended secondary instruction. And that would be, at
20 this point we're down to about 50 or 40 percent of the at-
21 risk group, which is only now about 12 percent of the
22 school population, just to kind of give you some idea of

1 the numbers we're talking about here.

2 So these students would have gotten 20 weeks of
3 instruction, or approximately 100 30-minute sessions. And
4 at this point remember they're continuing to get their
5 primary instruction, and this is supplemental instruction.

6 And the reason we're monitoring them is we
7 don't want students to have supplemental instruction any
8 longer than they need it. So that's why it's important
9 not to just put students in secondary instruction and
10 leave them there for the whole year. We continue to
11 monitor their progress at benchmarks, and we exit them
12 when it's appropriate to do so.

13 Now, here's the interesting question. What
14 about students -- and there will be about 25 percent of
15 the at-risk group or about 6 to 8 percent of the sample
16 whose response to this supplemental instruction is not
17 what we would expect. They are not making the kind of
18 progress, even in small groups of one to four, that we
19 would hope they would make.

20 And at this point we start thinking about what
21 we call tertiary instruction or what our Assistant
22 Secretary, Bob Pasternack, might think of as special

1 education.

2 These are students who need much more extended
3 instruction for a longer period of time. But again we
4 want to monitor their progress, just like we monitor the
5 progress of students that are getting supplemental and
6 secondary instruction, because we want to exit them, too.

7 We don't want to see this, as we call it,
8 special ed jail. We want their progress, whether it's
9 behavioral or academic, to be monitored. And when they
10 need benchmarker criteria, they exit, just like other
11 students would.

12 So that kind of gives you at least -- oh. I
13 have to hit that, don't I? How do I get rid of this
14 thing? There we go. I got it.

15 And then, the exit criteria, as you can see, as
16 you exit this secondary instruction you're always in
17 primary instruction. And these are just indicators of
18 meeting the criteria.

19 All right. Now, this visual image here I'm
20 mostly showing you because it's so attractive. But
21 basically some people would argue that, do we really know
22 what this effective reading instruction should be?

1 And if we're going to provide supplemental
2 instruction, do we actually know enough to do that in a
3 way that we can document the results and have confidence
4 about what we're recommending?

5 The answer really is yes. You have some
6 excellent members of the panel, like Reid Lyon, who can
7 give you all of the details about this.

8 But briefly speaking, just to kind of give you
9 a visual image as Commissioners about what this would
10 mean, we know what these essential components of early
11 reading are.

12 And in a way, the way I kind of think about it,
13 is that they're pieces of a quilt, and all of the pieces
14 are necessary to have a complete quilt.

15 And just to kind of give you a visual image,
16 it's phonemic awareness, which is basically understanding
17 the sounds of language, and then later on how these sounds
18 of language represent print or letters, and then how we
19 blend and segment these letters to form words.

20 We know that phonics and word study are a very
21 important part of this essential reading program. And
22 whether you're doing supplemental instruction or core

1 reading instruction, these should be the critical
2 components.

3 We know that students who have opportunities to
4 spell and write and sort of have opportunities to practice
5 these letters and sounds do better.

6 We know that in the bottom little patch of the
7 quilt that students need practice with fluency. In other
8 words, they need accuracy and speed, whether it's letter
9 naming or word reading or reading connected text; we know
10 that they need opportunities to understand what they read;
11 And we know they need opportunities to build vocabulary.

12 For those of you like myself who am struggling
13 with learning Spanish, one of the critical things that
14 influences my comprehension is whether I know what the
15 words mean or not.

16 And it sounds like a small thing. But many
17 students, as we've learned from some of the very serious
18 research on early vocabulary development, the variability
19 in vocabulary that youngsters bring to school, whether
20 they're Kindergartners or preschoolers, is a huge range.

21 And what we need to do is figure out very
22 productive ways of enhancing and extending vocabulary

1 because it's so closely related to reading comprehension.

2 And then, we also know that we have to -- with
3 the primary instruction, the core instruction that
4 students get, we need to be concerned about their group
5 size so that students who are struggling need small group
6 instruction, four or five students.

7 And it's really okay if they get same-ability
8 instruction; we don't have to have mixed ability all the
9 time.

10 We need to maximize students' learning by
11 providing correction and feedback, very systematic and
12 explicit instruction.

13 And we also need to provide effective
14 supplemental reading interventions. And that's what I was
15 talking about with those secondary interventions.

16 Now, let me kind of see if some of this can
17 kind of come to life through a graph.

18 Basically what we did at the University of
19 Texas at Austin is, we took a sample of Second Grade
20 students who failed one of the screening measures that we
21 talked about earlier. And this was the Texas Primary
22 Reading Inventory.

1 And we took that sample of students, and we
2 gave them a bunch of tests. And if you look at the prior
3 to intervention, you'll see how these students did before
4 we provided any supplemental intervention.

5 And basically with Second Graders, these
6 students ranged from four to about 30 on an oral reading
7 fluency Second Grade measure. That's very low. We would
8 be expecting these students to be reading at about 60 or
9 70 at this time. So that gives you an idea of how low it
10 is.

11 Basically what we did is, we provided a ten-
12 week supplemental instruction, just like I told you about,
13 that lasted about 30 minutes a day on the key components
14 of instructional reading, like we just talked about. And
15 that would add up to about 25 hours of supplemental
16 instruction over a ten-week period. And then we retested
17 all of the students on those same measures.

18 So if you look at the first benchmark ten weeks
19 after intervention.

20 Now, we did not decide ahead of time who was
21 going to exit. We let children exit based on their
22 performance.

1 And what you'll see is that we have a group of
2 students who met our pre-priority determined exit criteria
3 after ten weeks. And that's our red diamond. Those kids
4 went from about 25 to about 62 on the average. That
5 represented about 25 percent of our sample. They met exit
6 criteria; we returned them to the classroom; we provided
7 no more supplemental instruction.

8 Look at the green square. That's the students
9 who -- excuse me. All three of the other groups, we went
10 ahead and -- they weren't -- we continued to provide
11 supplemental instruction for another ten weeks.

12 Look at the 20-week mark. At 20 weeks -- we
13 call those mid-term exit students. The green square
14 students met exit criteria after 20 weeks. We're now up
15 to about 55 percent of the sample. Okay?

16 We provided another ten weeks of supplemental
17 instruction to the remaining students. That's our late
18 exit students. That's the blue ball. Those students met
19 exit criteria after 30 weeks.

20 So that kind of gives you a feel that some of
21 the kids meet the exit criteria quickly, go back and
22 continue in the classroom without supplemental

1 instruction. Some of the kids meet it a little later, and
2 some of the kids need 30 weeks before they meet it.

3 Now, I also want you to note our little purple
4 diamond kids who after 30 weeks of supplemental
5 instruction, which is about 150 sessions, which is about
6 75 hours, these students still do not meet exit criteria.

7 And these are students Bob Pasternack would
8 probably be very interested in. These are students who
9 are not responding to treatment very well, and these are
10 the kinds of students that we probably would consider
11 special education students.

12 Now, these students were not labeled, but they
13 probably soon will be, because we know that they usually
14 get labeled, what, Third, Fourth Grade, because we have
15 the lovely wait-to-fail model.

16 Now, if you look at these students under the
17 no-exit, it's important to note not so much that they
18 didn't make progress, but that they made progress at a
19 different rate.

20 And I say that because they're not treatment
21 resistant, they're just responding to treatment in a
22 different way.

1 And these are the students we want to continue
2 to give supplemental instruction to. In fact, we probably
3 want to start double-dosing these kids. That's what I
4 would do next, give them an hour, an hour and 20 minutes
5 of treatment, and see whether or not we can get a better
6 trajectory than we have right now.

7 But the only reason I'm showing you this is so
8 that you have a visual image as Commissioners about what
9 it's possible for districts and states to do and why it's
10 important to implement a model like this very early and
11 how we have the capacity to do that.

12 Now, clearly we're going to have to build some
13 resources and some infrastructure within schools and
14 states if we go with a model like this. But I want you to
15 understand that there are ways in which we can think about
16 this productively.

17 Now, I want to show you one more thing. I took
18 two of the students who were the early exit kids. So
19 these are two students who met exit criteria after ten
20 weeks. Right?

21 And the reason I'm showing you this is because
22 I want to show you the importance of ongoing progress

1 monitoring even after students meet exit criteria, because
2 risk status may not go away. And these two students
3 exemplify that, I think, very nicely.

4 If you look at Eduardo and Austin at the
5 beginning of the intervention, both of them were not doing
6 very well, and they had very identical profiles.

7 And you can see that after ten weeks these two
8 kids were rocket ships. I mean, from 21 words a minute to
9 65 words a minute in ten weeks is in anybody's judgement
10 very, very rapid growth with very minimal intervention.
11 This is one-on-four instruction 30 minutes a day. We're
12 not busting their chops with extra attention.

13 But look what happens when we return them to
14 the classroom. After ten weeks both Austin and Eduardo
15 were exited from supplemental instruction.

16 But you can see that after exit Eduardo takes
17 off. His progress -- he got jump-started, he sort of got
18 the alphabetic principle, took off with it, and progress
19 in reading was very noteworthy. In fact, he's now above
20 average for Second Graders by the time we get to the end
21 of Second Grade.

22 Now, Austin is a different story. Austin goes

1 back to the classroom, and he's somebody we call a fail-
2 to-thriver in the classroom. And you will see a -- we
3 will all see a number of these.

4 This student, after 30 weeks -- after 20 weeks
5 in the classroom, did not make very much progress, and in
6 fact, we followed him into Third Grade, and he starts
7 dipping into the risk group again.

8 What does that mean? It means that after
9 students exit risk, it doesn't mean that every single one
10 of them will remain out of risk forever, which is why we
11 think of progress monitoring as ongoing.

12 Now, of our students that exited after ten
13 weeks, only 20 percent ever -- at least into the end of
14 Third Grade -- we didn't follow them throughout their
15 lives -- ever needed supplemental instruction again.

16 But 20 percent is a large number, which is why
17 progress monitoring which is efficient and inexpensive is
18 worth doing.

19 And by the way, although I used reading as the
20 model, we can do these very same things for behavior.

21 Okay. So that's all I have to say. Thank you.

22 MR BRANSTAD: Okay. At this point we would

1 open it for questions of our presenters.

2 DR. BERDINE: Mr. Chairman.

3 MR BRANSTAD: Yes.

4 DR. BERDINE: Dr. Vaughn, I'm curious about
5 your double dosing description.

6 DR. VAUGHN: Yes.

7 DR. BERDINE: What evidence do you have that
8 this phenomenon, double dosing it will make it different?

9 DR. VAUGHN: Well, the only evidence that I'm
10 aware of is a study done by Joe Torgesen and his
11 colleagues at Florida State in which they provided two
12 doses of 50-minute instruction every day to students whose
13 progress in reading had been significantly low, and in
14 fact they were identified as learning disabled and were
15 making no progress in reading for several years.

16 At the end of that double dosing period, which
17 I believe was, I'm thinking it was six weeks -- am I right
18 on that, Reid, six weeks -- the progress they made was
19 astronomical. And in fact, a large percentage of the
20 students, more than 50 percent, exited from special
21 education as a result of that.

22 So that would be the evidence I would use that

1 double dosing might be a valuable way to proceed for
2 students whose response to treatment was less than
3 adequate.

4 DR. BERDINE: To what extent can you explain
5 the differences in the exits by the four different groups,
6 the rectangle, star, et cetera? What percentage of that
7 difference in performance would you ascribe to just
8 individual differences?

9 DR. VAUGHN: Okay. I want to make sure I
10 understand. You mean like students that exit early, mid,
11 late?

12 DR. BERDINE: Right.

13 DR. VAUGHN: Well, I don't know if I know the
14 precise answer to that, but I can tell you -- I mean, in
15 other words, I'm sure individual differences plays a role,
16 it influences everything.

17 But in this particular case, the best predictor
18 of students that were going to be what we would think of
19 as low responders to treatment, the group that never
20 exited, the best predictor was rapid naming and fluency
21 prior to initiation.

22 DR. BERDINE: To what extent in the students

1 that you studied were you matching by race, SES --

2 DR. VAUGHN: Oh. That's a good question. I'm
3 actually glad you asked that, because I know the answer,
4 so those are the questions I like.

5 (General laughter.)

6 DR. VAUGHN: The group that -- the sample
7 actually was about 70 percent minority students, slightly
8 more Hispanic students than African-American students.
9 And exit from group was not predicted by race. In other
10 words, we had the same number of African-American and
11 Hispanics as in the population, the sample as a whole,
12 exit at ten weeks, 20 weeks, 30 weeks, and 40 weeks.

13 Interestingly enough, second language learning
14 also did not predict exit. We had none of the students in
15 the no-exit group, our fourth group, the group that
16 responded the least to progress, none of those students
17 were second language learners. We had large numbers of
18 second language learners exit after ten and 20 weeks. All
19 the instruction was in English.

20 Thirdly, which I think is interesting, is that
21 we did not also have any higher representation of males or
22 females in the exit groups. In other words, we had -- in

1 fact, we had slightly more girls than boys in the no-
2 response-to-treatment group.

3 So ethnicity and sex did not seem to be related
4 at all to whether you were going to be an early, mid,
5 late, or no-exit student.

6 DR. BERDINE: And SES and --

7 DR. VAUGHN: SES we couldn't use as a variable
8 because we didn't have enough range. All of our students
9 were relatively poor. They would have been considered,
10 well, poor. They all qualified for free and reduced
11 lunch. So we didn't have range, we didn't have any
12 variation in SES.

13 DR. BERDINE: Level of education of parents or
14 of guardians?

15 DR. VAUGHN: Again, we didn't have enough
16 variation to use that as a variable.

17 DR. BERDINE: Thank you.

18 MR. JONES: Sharon and Dan, I might suggest,
19 since you're going to be up for about 50 more minutes
20 potentially answering questions, you might want to sit
21 down --

22 DR. VAUGHN: Oh. Okay.

1 MR. JONES: -- just to save your feet.

2 MR BRANSTAD: Any other questions?

3 DR. VAUGHN: They can probably tell which of us
4 is which, but maybe we should switch.

5 DR. RESCHLY: I always wanted to be you,
6 though.

7 (General laughter.)

8 REV. FLAKE: My question has to do with -- I
9 guess it's a follow-up in some ways. If the predictors on
10 the exit do not indicate any kind of racial differentials,
11 what about assessment?

12 Is it possible that preconceptions about
13 students based on their social background, poverty and
14 other factors that you say are pretty equal in this
15 particular database.

16 But could those predictions come by virtue of
17 perceptions that suggest that because of the limitations
18 of parents' education, limitations in terms of poverty,
19 that those kids probably cannot make it, therefore ought
20 to be assessed based on the social variables that are
21 determined by behavior as opposed to just things like
22 reading or math or something else?

1 DR. RESCHLY: Well, I think in the program
2 Sharon is talking about all kids were assessed. It was
3 universal screening.

4 DR. VAUGHN: Yes. That's right. That's right.

5 DR. RESCHLY: And the measures are pretty
6 direct, simple measures of phonemic awareness, print
7 awareness, and so on. They're not the kind of measures
8 where it's likely that there would be a lot of bias that
9 would interfere with accurate assessment. It's still a
10 possibility, but --

11 REV. FLAKE: Then, in post-exit, Eduardo and
12 Austin, did they go back to the same teachers, same
13 classrooms, or a differential in terms of their placement
14 in the post-exit?

15 DR. VAUGHN: Yes. I think one of the questions
16 that is a good one is that, you know, is this failure to
17 thrive in the classroom a result of the question that
18 Professor Berdine asked, which is something about
19 individual differences, or is this failure to thrive in
20 the classroom a function of the quality of instruction
21 provided in their primary or core instruction?

22 And I think that's a very important question

1 and a question that we really need to address, because we
2 don't know the answer, frankly, or at least I don't know
3 the answer of this one.

4 But we do know that primary and core
5 instruction is very powerful and that it can be powerful
6 enough to support struggling readers or at-risk readers in
7 a way in which they can be successful. And it can also be
8 weak enough to create a lot of kids who need supplemental
9 instruction. We absolutely know that.

10 And so whether that was the case for these
11 particular two students that I pulled out as a case, I
12 can't tell you.

13 But we also know this. And this is why it
14 makes it an interesting question from my perspective. We
15 also know that some students are thrivers in a large
16 classroom and some students are not thrivers.

17 And that when they are provided small group
18 instruction that's situated to their learning, they do
19 surprisingly well. And then their progress is diminished
20 or in some ways marginalized when returned to the
21 classroom even when the classroom is pretty good.

22 So we need to appreciate that there will be

1 those students, and I think that's why we have special
2 education.

3 And I think the question that this Commission
4 has the privilege of answering is, how can special
5 education maximize the performance of students, and how
6 can it be the most desirable option that actually provides
7 important support for students who need it?

8 REV. FLAKE: And Dr. Reschly, just one final
9 question. That is that there are reports that many white
10 families who are not necessarily in poverty use special ed
11 for various reasons, have access to various services.

12 How do they fit in the overall database as it
13 relates to how you measure them that have come into the
14 program with a specific disability needs versus coming
15 into the program with specific behavior needs or academic
16 needs? Is there a differential in how you do that
17 analysis?

18 DR. RESCHLY: Well, they're all included in the
19 same database.

20 REV. FLAKE: Okay.

21 DR. RESCHLY: I think one of the analysts
22 pointed out to the panel quite eloquently that special

1 education means very different things in large urban
2 cities versus affluent suburbs.

3 REV. FLAKE: Right.

4 DR. RESCHLY: Special education in large urban
5 cities means in many cities -- by no means all, this
6 varies a lot -- but in large urban cities it often means
7 self-contained, largely segregated, at least in terms of
8 curriculum, special classes, whereas special education in
9 the affluent suburbs means more part-time tutorial small
10 group instruction.

11 And so we have the seeming anomaly of many
12 affluent parents really advocating for more, not less,
13 special education, but at the same time, many advocates
14 for minorities advocating for just the opposite.

15 REV. FLAKE: That's right.

16 DR. RESCHLY: But their different positions I
17 think are explained in large part by the different
18 meanings of special education across those different
19 settings. And that's something that was recognized by the
20 panel, and I think it's very important to recognize, and
21 it's part of reform in special education.

22 Yes, sir.

1 DR. FLEMING: Just to cover a little bit more
2 what Rev. Flake was saying, what I was surprised about was
3 that there's no data about the behavioral. And if there
4 is data about the behavioral, how was that handled?

5 And I'm thinking in terms of the one-to-one or
6 a teacher with one-to-five where you're literally dealing
7 with children who are just -- they're just -- there's a
8 lot of confusion there, but they are literally at that
9 point protecting what they perceive as their own persona.

10 So in much of my experience I remember just
11 kids could give another kid a look, and I'd have to be the
12 one to investigate what that look was and how far it
13 actually began.

14 So the behavioral model, when you're thinking
15 in terms of reading and some of the more areas where you
16 have to be very precise and understanding, is there any
17 data that they had any kind of intervention for behavior?

18 DR. RESCHLY: Let me comment on that. First,
19 we may have misled you in one sense, and that is to
20 suggest that behavior and reading or behavior and
21 academics generally are independent, and in fact they're
22 not.

1 DR. FLEMING: Oh, I understand that.

2 DR. RESCHLY: Lots of students that start out
3 with behavior problems are going to have difficulty
4 academically, and vice versa, a lot of kids that have
5 trouble academically develop into various kinds of
6 behavioral difficulties.

7 With the behavior, though, you need the same
8 kind of multi-tiered that were discussed. And the
9 committee discussed those. They have not been as well
10 established or as well defined, but there are programs
11 that have been implemented that do have a very major
12 impact.

13 It starts out with a school-wide positive
14 discipline program, a school-wide positive discipline
15 program that pays more attention to appropriate behavior
16 than to finding reasons to suspend kids, for example.

17 School-wide positive discipline, effective
18 classroom management, classroom organization and
19 management, supported by supported by directed
20 interventions in the natural context, in the classroom,
21 for students with severe behavioral difficulties.

22 It's a prevention model. You don't take those

1 kids and say, My goodness, they're off task, they're doing
2 this, they're doing that, they need to go to special ed.

3 Rather it is, What is it that we can do in this
4 context to change this environment so that that
5 youngster's behavior can become more competent?

6 Please.

7 DR. VAUGHN: Well, I was just going to say,
8 would you also not agree that we know a lot more about
9 primary intervention for behavior, the school-wide models,
10 than we do about secondary or tertiary?

11 DR. RESCHLY: Yes.

12 DR. VAUGHN: So what I think we can say with
13 confidence is that a lot of the problems that end up
14 identifying students as emotionally disturbed could be
15 prevented, and they could be prevented with solid,
16 appropriate school-wide behavior support, not behavioral
17 discipline -- you heard a difference in the word --
18 behavioral support programs.

19 DR. RESCHLY: Yes. That's right.

20 DR. VAUGHN: Now, we do, I think, need some
21 more work in the secondary and tertiary area. In other
22 words, just like every other good prevention model, we're

1 going to have some kids that are going to fall out.

2 And I'm not sure we know exactly what to do
3 with students whose behaviors are not being addressed
4 appropriately with school-wide models. I mean, I'm not
5 sure that self-contained behavior sort of classrooms is
6 what we need.

7 DR. RESCHLY: Oh, no. No. No.

8 DR. VAUGHN: I'm pretty sure they're not.

9 DR. RESCHLY: Let me comment on that. There
10 are well established programs to develop individual
11 interventions in natural contexts that have a high rate of
12 success.

13 The fact is, however, that we intervene early
14 and prevent and intervene early much more effectively than
15 we treat problems that have existed for several years.

16 If you have a student that has a slightly
17 escalating over time but increasingly serious behavior
18 problem, he finally arrives at Fifth or Sixth Grade, the
19 child is now big enough to hurt us, that's when they get
20 referred.

21 Most often that referral goes into a self-
22 contained class of other kids with similar kinds of

1 difficulties, probably the last place where you would
2 expect effective treatment to occur.

3 And the panel and the literature and the
4 science on this is that we've got to intervene early and
5 intervene effectively. There will be kids for whom we
6 will not be effective, but we can be effective with a lot
7 of kids that are currently in those programs now.

8 I'm sorry, Adela.

9 MS. ACOSTA: No. Actually, I had the same
10 question about behavioral intervention models, because you
11 alluded to that before. And you know, it is true that
12 behavior does impact on academics and vice versa.

13 However, I'm also looking at the issue that you
14 talked about inclusion. You know, when do we include
15 students in the general population, and when do we isolate
16 them? And I think that that's something we need to
17 recognize when we recommend models for intervention.

18 There are behaviors that can be handled in the
19 context of the general population, which the thinking in
20 special ed is to keep children in the general population
21 as much as possible whenever possible.

22 So therefore that goes back to my concern about

1 teacher preparation and the link between teachers that
2 know how to teach reading. You know, I've had teachers
3 say, Well, I'm not a reading teacher. My contention is
4 that every teacher is a reading teacher. We put people in
5 classrooms and we give them multi-layered jobs without
6 teacher preparation.

7 And you know, I would look at all of what
8 you're saying about behavioral models and reading
9 intervention, another intervention, if you will, is
10 appropriate personnel.

11 DR. VAUGHN: I think somebody is going to have
12 to recommend -- and I'm just going to pick up on this and
13 give my own opinion, and I hope this Commission is the one
14 that does this -- that the nasty job of investigating how
15 we prepare teachers has to take place.

16 The unfortunate fact is we have lots of credit
17 hours, we have lots of courses, and we don't have the
18 knowledge, skills, and expertise we need at the end of it.

19 Now, I think any profession is a lifelong
20 profession. I don't expect an engineer to come out with a
21 degree in engineering and never take another course. I
22 think that would be a mistake. I think that's true for

1 any profession, I think it's true for teaching.

2 But I do think that we have to do the dirty
3 work of figuring out what teachers need to know and how
4 they need to learn it and how we need to modify programs
5 to assure that happens, because we're not close enough.

6 DR. BERDINE: Sharon, can I ask you a Butch and
7 Sundance kind of question? And who are those guys you're
8 talking about? You showed some fairly significant
9 performance rate change in your studies. And as a teacher
10 educator, I'm always curious about, you know, who are
11 those guys? Who are the people effecting that change?

12 How long did they go through training and at
13 what level of training were they allowed to start your
14 interventions?

15 DR. VAUGHN: So are you saying the children
16 themselves or the teachers?

17 DR. BERDINE: The interveners.

18 DR. VAUGHN: The interveners.

19 DR. BERDINE: The interveners in your three
20 levels.

21 DR. VAUGHN: Well, we hire uncertified
22 undergraduates, and we provide extensive training to them.

1 And --

2 DR. BERDINE: What's extensive mean?

3 DR. VAUGHN: Well, the initial training will
4 probably be about five full days, and then we meet with
5 them every week after that. And we get very good results
6 with them.

7 REV. FLAKE: Again, uncertified
8 undergraduates --

9 DR. VAUGHN: I want to be sure I'm clear about
10 what I'm talking about. I'm talking about this
11 supplemental instruction.

12 REV. FLAKE: Specifically trained?

13 DR. VAUGHN: Yes. They're very specifically
14 trained to do very specific things. I'm not the only
15 person who does this, by the way. This is a model that's
16 being used universally. Jack Fletcher and Barbara Foorman
17 use this, Joe Torgesen uses it. It's being used
18 universally.

19 We find persons who have undergraduate degrees
20 in something good who themselves are phonemically aware.
21 So we actually give them phonemic awareness tests to make
22 sure that they, you know, will bring some of that

1 knowledge because they have the capacity themselves. And
2 then we provide the training.

3 And we find that they are very good instructors
4 and that we can influence them in very positive ways.

5 REV. FLAKE: That's not an adversarial concern.
6 It is a supportive --

7 DR. VAUGHN: Yes.

8 REV. FLAKE: I think it's wonderful you can
9 train people specifically to do this. And that's a
10 critical, I think point.

11 DR. LYON: Could classroom teachers or special
12 educators also be trained to do the things you're doing
13 with these people?

14 DR. VAUGHN: I think the answer is, if they
15 cannot, they need a new profession, because --

16 (General laughter.)

17 DR. VAUGHN: I mean, I don't mean that in a
18 flip way, but I mean that is the profession they've
19 chosen. And so if for some reason they're resistant to
20 training, we probably need to find another profession.

21 MR BRANSTAD: Katie Wright.

22 MS. TAKEMOTO: But what model --

1 MR BRANSTAD: Katie Wright I think was next.
2 We've got several people who want to ask questions.

3 DR. WRIGHT: I have a question. And you've
4 probably answered it, but my ears are so stopped up.

5 But I needed to know, the study that you did,
6 does it separate out academic benefits from social skills
7 benefits in terms of special ed placement? I'm going back
8 to Dunn's study, then I'm going back to the Goldstein
9 study which said that the academics didn't do much but
10 that the social skills and behavior was improved.

11 DR. RESCHLY: Well, let me comment on those
12 studies. I think what those studies said was that the
13 social acceptance or popularity measures improved because
14 you put students in a different group.

15 The issue of whether their actual behavior or
16 their social skills improved was a little more elusive.
17 It wasn't as clear that those benefits existed.

18 There are benefits of special classes, however,
19 or special programs at the high school level with regard
20 to work study and work preparation.

21 And there's good literature out there that
22 suggests that special education at the high school level,

1 if it is vocationally oriented, confers benefits to kids.
2 If it's not, then those studies are -- there's not much
3 there, either for the kind of kids you're talking about,
4 the Dunn studies, Herb Goldstein, and that group. Is
5 that --

6 DR. WRIGHT: Yes.

7 DR. RESCHLY: Yes. There were other questions.
8 Thank you.

9 MR BRANSTAD: Doug Huntt was next.

10 DR. HUNTT: Thank you, Mr. Chairman. I want to
11 thank you both for your excellent presentations. I have
12 two questions for you, although the first one is more of a
13 comment and you can explain to me later the answer,
14 because I don't think based on time you have the time to
15 answer this.

16 But essentially I don't understand, with regard
17 to overrepresentation, if special ed is running at its
18 optimal, it's had the opportunity to excel in
19 individualized appropriate services, and why does
20 overrepresentation matter?

21 But on the other hand, if special ed is not
22 working at its optimal, and you have special ed prison, as

1 Dr. Vaughn indicated, then why do we have kids with
2 disabilities in the system, either?

3 MR BRANSTAD: I think your point is well taken.
4 You hit the nail on the head as far as I'm concerned.

5 And a lot of it has to do with the differences
6 I just talked about between special education in affluent
7 areas versus special education in urban areas where
8 special classes are often used from an early age and those
9 special classes have a weaker curriculum, fewer academic
10 demands, little opportunity to progress in the general
11 education curriculum, little opportunity to get out of
12 special education.

13 As opposed to special education that's oriented
14 toward improving specific skills and competencies with an
15 eye toward exiting. And I think that's much of the
16 dilemma there.

17 DR. HUNTT: Okay. So before you all leave what
18 I'd like to hear from you is, what are your specific
19 policy changes, recommendations? Based on your studies
20 and your presentations, what specifically are you asking
21 the panel to consider as your recommendations to changing
22 IDEA?

1 MR BRANSTAD: I think the NRC Report, we'd
2 pretty much stand on that, emphasis on early intervention
3 and prevention, the use of special education resources,
4 particularly with regard to dealing with behavior in
5 general education contexts, and then the emphasis on
6 outcomes in special education.

7 I'm not -- and it's only partly facetiously
8 that I suggested to several people last night that we
9 ought to change special education such that you're
10 automatically staffed out of special education after a
11 year if you do not show substantial progress. This is for
12 high-incidence disabilities.

13 If special education doesn't produce positive
14 changes, then kids ought to go out. And that would really
15 change the incentives dramatically for everybody in the
16 system, and it would focus everybody's attention on
17 results.

18 And I don't think we -- under the current law
19 our focus is primarily on process, the right signatures,
20 the right number of people at meetings, right number of
21 meetings, right number of days. And there's very little
22 focus on outcomes for specific kids.

1 And I think the policy changes that are really
2 essential is to focus attention on outcomes for specific
3 kids with incentives that really reinforce that behavior
4 or really push that behavior forward.

5 MR BRANSTAD: Dan, why would you restrict that
6 just to special ed? Why would you just have special
7 educators being responsible for showing changes for
8 students?

9 DR. RESCHLY: Well, I wouldn't. But he asked
10 what policy changes in special education, so I was
11 responding to the special education content of the
12 question. Butterfly that to other situations, as well,
13 though.

14 DR. VAUGHN: Can I just get in a subnote?

15 2

16 DR. RESCHLY: Please. Please do.

17 DR. VAUGHN: I just want to say, one thing I
18 would add -- and I think you said it. But the thing I
19 would add to the IEP is exit criteria --

20 DR. RESCHLY: Yes.

21 DR. VAUGHN: -- and specifically measurable
22 exit criteria, not 97 on an IQ test or some, you know,

1 benchmark that isn't, you know, responsive to instruction,
2 but an exit criteria that's responsive to instruction so
3 the parent and the child and the student know exactly how
4 you get out.

5 DR. RESCHLY: Right.

6 MR BRANSTAD: Bryan, next.

7 DR. HASSEL: Just to pursue this idea of policy
8 recommendations a little bit further, it seems like a lot
9 of your recommendations have clear implications for
10 schools, for principals, about how to design a program and
11 early intervention and screening and follow-up and
12 monitoring over time. And if I was a principal, I would
13 be able to take a lot away.

14 But could we delve a little more into your
15 ideas about what a state or a Federal policy could look
16 like that would encourage schools to act in the ways that
17 you think they ought to act?

18 We've heard some ideas. One is improving
19 teacher preparation, which would change the kind of flow
20 of professionals into the field. And then, you've just
21 talked about changing the IEP in certain ways.

22 But were there other recommendations in the

1 committee's report about ways to change policies that
2 would encourage the sorts of school level work that you
3 say is so important, and so convincingly say that?

4 DR. VAUGHN: He's done this.

5 DR. RESCHLY: I think you work very hard toward
6 changing what -- first of all, you have policies that
7 facilitate, in fact, demand that you look at outcomes for
8 kids.

9 Secondly, you do compliance monitoring along
10 the lines of outcomes for kids rather than the processes
11 that get kids into, maintain them in special education.

12 I think there's a huge potential influence of
13 the compliance monitoring efforts that are now mandated on
14 the part of the Federal Government and the states. And
15 currently compliance monitoring doesn't look at outcomes
16 in my view.

17 Please.

18 DR. VAUGHN: Well --

19 DR. RESCHLY: She always makes me answer the
20 question, then she gives the real answer.

21 DR. VAUGHN: Just like a married couple.

22 DR. RESCHLY: Yes.

1 DR. VAUGHN: Well, what he meant was --

2 (General laughter.)

3 DR. VAUGHN: I forgot what I was going to say.

4 (General laughter.)

5 DR. RESCHLY: I'm sorry. I didn't --

6 DR. VAUGHN: Go ahead. I'm sorry. That's all
7 right.

8 MR BRANSTAD: Steve I think is next.

9 MR. BARTLETT: I have a two-part question. One
10 is to try to obtain some clarity.

11 In your model on the reading model for the
12 supplemental instruction for the ten weeks and ten weeks
13 and ten weeks, is that a different type of instruction? I
14 kept hearing the word, phonemics. Is that phonics?

15 DR. VAUGHN: Right.

16 MR. BARTLETT: So is it a different type of
17 instruction or the same instruction with small groups?

18 DR. VAUGHN: Well, I'm glad you asked that
19 question. I mean, if you have a good primary or core
20 instruction program in Kindergarten, First, and Second
21 Grade, it will be very similar.

22 It will be a little more situated to the needs

1 of the students because you have a small group. It will
2 be a little more intense because you can give more
3 feedback and correction. It will be a little better
4 sequenced because you'll be able to be responsive to where
5 the students are.

6 But those core areas, those essential elements
7 of reading that put up there, will be the same.

8 MR. BARTLETT: But it's the same instruction as
9 in the main classroom?

10 DR. VAUGHN: Well, I don't want to say it's the
11 same instruction, because what you see in Kindergarten,
12 First, and Second Grades varies enormously. But if you
13 have a very strong Kindergarten, First, Second Grade
14 program with good core instruction, the essential elements
15 are the same. What varies is correction, feedback,
16 pacing, sequencing, et cetera.

17 MR. BARTLETT: Okay. Now, my question, then,
18 based on that, trying to understand what the supplemental
19 instruction looks like, I want to try to summarize what I
20 heard you say is your thesis and then ask you how you
21 would implement that in Federal law, not with a whole book
22 of recommendations, but just the core of what we would put

1 into Federal law.

2 As I heard your thesis -- and I want you to
3 correct this if I didn't hear it right, which is entirely
4 possible -- is that we could go a long ways to correcting
5 the disproportionality and racial disproportionality of
6 identification if we were to address early intervention in
7 reading and classroom behavior that resulted --

8 And the intervention would result, though, in a
9 supplemental instruction as opposed to an identification
10 as an identified student that would go into the special
11 education. Is that your thesis?

12 DR. VAUGHN: I think prevention is critical,
13 and you heard that accurately. And good core or primary
14 intervention for behavior, in terms of behavioral support
15 or for academics is essential.

16 MR. BARTLETT: Reading?

17 DR. VAUGHN: Yes. That's correct. That's
18 primary. For those students who very early on,
19 Kindergarten and First, monitor their progress. So also
20 here ongoing early screening and progress monitoring, that
21 would be a second feature.

22 MR. BARTLETT: Right.

1 DR. VAUGHN: And then, thirdly here, intervene
2 quickly. Make the error of intervening with more kids
3 than fewer for supplemental instruction.

4 So early on don't worry about, Well, do I --
5 are they special ed, are they going to be behind when
6 they're in Fourth Grade? Say, We're going to take the
7 risk of providing a short intensive intervention and see
8 how they respond to it.

9 As you saw, some of the kids are going to
10 respond quite well, they won't need it very long; some of
11 the kids are going to need a little bit longer; and some
12 of the kids are going to end up requiring what we would
13 call special education, but special education with
14 opportunities for exit.

15 I think all of us -- I don't know anyone who
16 doesn't want the most appropriate education for every
17 student. I don't think anyone is against that. And
18 that's any ethnic group.

19 What people are sensitive to is being placed in
20 an alternative education program that isn't as good as
21 what they could get. That's what people are sensitive to.

22 And the purpose of this model is to assure the

1 highest quality instruction and behavioral support every
2 step along the way.

3 MR. BARTLETT: So the current model is you're
4 either special ed you're not?

5 DR. VAUGHN: Yes.

6 MR. BARTLETT: This is a different model?

7 DR. VAUGHN: It is a different model.

8 MR. BARTLETT: This is an early intervention
9 leading to supplemental instruction --

10 DR. VAUGHN: That's right.

11 DR. RESCHLY: Right.

12 MR. BARTLETT: -- with the outcome of
13 improvement, and some small percentage, then, the outcome
14 would be special ed identification?

15 DR. VAUGHN: That's right.

16 MR. BARTLETT: And how do you do that in
17 Federal law? That's what we're here for.

18 DR. RESCHLY: Well, I think you do it by
19 changing the criteria by which people get Federal monies.
20 I think that's the leverage you have. The IDEA is a
21 grant-giving statute. The states get grants, and then
22 monies are passed to local districts based on meeting

1 certain criteria.

2 I think you change the criteria that are
3 critical in those funding streams is ultimately the way
4 from a Federal policy level that you impose -- or not that
5 you impose -- but you bring about changes at the local
6 level. And maybe there's a better theory out there.

7 MR. BARTLETT: So the way you don't do it is,
8 you don't do as we would do if left to our own devices,
9 and that is create a new Title that says, Intervention
10 Title. Instead you change the model so the whole model
11 changes?

12 DR. VAUGHN: I got you. You're absolutely
13 right.

14 DR. RESCHLY: Yes. I agree with you. We don't
15 want another separate rigid system.

16 DR. VAUGHN: Here we go again.

17 MR. BARTLETT: We want a new model that is
18 early intervention, supplemental, and then exit.

19 DR. VAUGHN: Responsive.

20 DR. RESCHLY: Right.

21 MR. BRANSTAD: Tom Fleming.

22 DR. FLEMING: I hope I'm not pushing this so

1 far, and I really think I understand what I've heard.

2 But when I'm talking about the difference
3 between the cognitive learning and the behavior, I'm
4 thinking in terms of my own experience in the classroom in
5 which language, you know, oral language, before you even
6 get to the reading, was brought from the home and from the
7 community.

8 And I finally had to help the students to
9 understand when you're talking about birfday, B-I-R-F-D-A-
10 Y, or, I will bust you in your mouf, M-O-U-F, that's not
11 just insulting language, it was actually home ground where
12 the teacher where the "th" is just absent a lot in the --
13 and Black English studies have shown how that this
14 really -- and this kind of communication --

15 And we've already established how many teachers
16 are not from that environment that literally have to hear
17 that and try to correct it while also not endangering the
18 teaching that is going on at that point.

19 So I'm still asking how this model of moving
20 from special ed once you've been identified back through
21 into a regular curriculum and into the reading model with
22 that language factor being a reality.

1 DR. RESCHLY: Well, let me say that no child
2 should be deemed eligible for special education because of
3 language differences and that our eligibility criteria --

4 DR. VAUGHN: Dialect, anyway.

5 DR. RESCHLY: -- or dialect differences
6 especially, that we need to -- our current eligibility
7 criteria are based very much on nationally standardized
8 tests that are given outside of the regular classroom, et
9 cetera.

10 And the National Academy panel is proposing an
11 eligibility process that focuses on the ongoing response
12 to instruction, high quality interventions, using direct
13 measures in natural environments.

14 And children, for example, in oral reading
15 fluency, who read words with a dialect, whether it be
16 regional or a particularly culturally rooted dialect, et
17 cetera, those words are not counted wrong on the direct
18 measures given in classroom settings. Right?

19 DR. VAUGHN: That's right.

20 DR. RESCHLY: They're certainly not in your
21 measures, I'd bet anything, and they never were in the
22 ones that we used in Iowa.

1 The direct measures in natural classroom
2 settings were responsive to those kinds of cultural
3 variations, and they need to be.

4 MR BRANSTAD: Jack Fletcher is next.

5 DR. FLETCHER: I'd like to shift the topic
6 slightly and ask you some easier questions.

7 One of the things that neither of you commented
8 on was the effectiveness of special education services as
9 they are provided in schools.

10 And I'm really sort of curious. If you simply
11 take reading as an example, is there any evidence that
12 children improve in their reading skills as they are
13 served in schools, either in an inclusion in environment
14 or in a self-contained type of environment?

15 DR. VAUGHN: We had to negotiate who was taking
16 it first.

17 Let me just talk about special education in
18 reading. First of all, most of you know that the
19 inclusion movement was initially and perhaps primarily a
20 movement for low-incidence students, students who had been
21 left out of the classroom, generally a classroom, left out
22 of education, in fact, one could just say left out.

1 And the inclusion movement was very important
2 and is very important particularly for those students, no
3 question about it.

4 The influence of the inclusion movement on
5 high-incidence, particularly students identified as
6 learning disabilities, is much more debatable. And the
7 reason is because the opposite is true for these students.

8 These are students who were not provided
9 appropriate services in the regular classroom. So access
10 to the regular classroom -- maybe access to instruction
11 was limited, but access to the classroom itself was never
12 the issue. It's a completely different orientation.

13 And so the real question, in my judgement, is
14 not, are they in the regular classroom 100 percent of the
15 time and receiving precisely what the other students are
16 receiving, but for students identified learning
17 disabilities, are they receiving an appropriate education?

18 And for most of these students it will require
19 some supplemental instruction in small groups for a
20 portion of the day.

21 Now, where that occurs has never been the
22 relevant point. And in fact, in our work sometimes it's

1 in the corner of a room, sometimes it's in a hallway,
2 sometimes it's on a stage, sometimes it's in a closet, and
3 sometimes it's in another classroom. That's a privilege,
4 frankly.

5 Now, I think the issue is, how long are they
6 pulled out, and are we monitoring their progress to make
7 sure something effective is happening? So that's my
8 response to the inclusion.

9 Now, in terms of what we're doing in
10 traditional pull-out programs, I can only tell you that,
11 in the studies that we have done -- there are better
12 models than this, I'm quite certain of it.

13 But in the studies that we have done, we have
14 been sorely disappointed at the lackluster findings for
15 students with learning disabilities who are provided
16 reading instruction in traditional resource rooms.

17 By lackluster I mean their findings at the
18 beginning of the year predict their findings at the end of
19 the year.

20 Now, that suggests to me that we either need to
21 have an alternative instructional program or we need to be
22 rethinking what we're doing.

1 And so I know there's better programs than that
2 probably in states represented by the Commissioners here.
3 But in the studies that I'm aware of, unless very specific
4 interventions are put in place, when you do just
5 observational studies of status quo, the results are more
6 than disappointing.

7 DR. FLETCHER: Thank you. I have a completely
8 different question, if I may.

9 You've talked about this as a model for
10 children with high-incidence disabilities. I'm wondering
11 if there is anything that would preclude the participation
12 of children with low-incidence disabilities in a program
13 of this sort.

14 I'm thinking, for example, of children with
15 brain injury, for example, who might be having difficulty
16 learning to read or have behavior problems or things of
17 that sort.

18 DR. RESCHLY: I think the fundamental aspects
19 of the model having to do with being intervention
20 oriented, high quality interventions, the definitions of
21 high quality intervention, progress monitoring, et cetera
22 are equally applicable to all students with disabilities.

1 The problem we ran into when we were going to a
2 non-categorical system was that many people in the low-
3 incidence disabilities identify very strongly with the
4 disability, in the case of the deaf community, even a
5 cultural kind of identity.

6 And we were told very explicitly by the
7 advocates that if we took away the labels in the low-
8 incidence disabilities they would kill us.

9 And being -- you know, college professors
10 aren't all that politically sensitive; in fact, we're paid
11 not to be, I think. But we understood that language.

12 Now, there's also a qualitative difference,
13 Jack, between high-incidence and low-incidence
14 disabilities.

15 Someone who has a traumatic brain injury has
16 identifiable underlying biological differences. The same
17 is true for persons typically with multiple handicaps,
18 with severe levels of mental retardation, with sensory
19 disabilities, et cetera.

20 Schools are rarely the agency that diagnoses
21 that disability. Those disabilities are almost always
22 diagnosed outside of schools.

1 Moreover, if parents bring a diagnosis with
2 them or if the student has already been diagnosed in a
3 medical facility or other appropriate kind of agency with
4 the low-incidence disabilities, we saw no reason to take
5 that diagnosis away.

6 DR. FLETCHER: And if I could follow up.

7 DR. RESCHLY: Please.

8 DR. FLETCHER: The determination of a
9 disability is still a two-prong eligibility in IDEA. I
10 mean, it's not just having the disorder itself.

11 DR. RESCHLY: Oh, no.

12 DR. FLETCHER: And in fact, many children are
13 served under the low-incidence disability categories,
14 particularly as health impairments or orthopedically
15 impaired because they have trouble learning to read or
16 because they have behavioral difficulties.

17 DR. RESCHLY: Yes. And there are other
18 students clearly who have disabilities but who have no
19 need of special education, in fact, the last thing in
20 world they need is special education. At most they need
21 accommodations that are covered under 504.

22 So there is the two-pronged criteria, both the

1 eligibility, however that's defined, plus need of special
2 ed.

3 DR. FLETCHER: Right.

4 MR BRANSTAD: Alan Coulter is next.

5 DR. COULTER: I have two questions. One is a
6 follow-up on Commissioner Bartlett's question to you, and
7 the other would be a follow-up on Commissioner Berdine's
8 question.

9 First is, I mean, one of the things that this
10 Commission struggles with is that within the charge that
11 we have from the President it speaks to special education
12 in a very broad sense, not just the reauthorization of
13 IDEA.

14 So I think it's important for us to consider
15 the relationship of special education as it relates to
16 other programs.

17 So one of the things that I think that you have
18 very eloquently described is an intervention system that
19 really provides services to kids so that they learn.

20 Who is paying for those services and what the
21 label of those services is or might be I don't think
22 you've really particularly paid attention to, at least in

1 what I've heard this morning.

2 So as we consider the current Federal
3 legislation as it relates to Reading First, how would you
4 see the kind of program that you've described this morning
5 working as it relates to Reading First versus special
6 education?

7 And let me make the question much more bluntly.
8 At what point in your diamonds and triangles, et cetera,
9 would a child actually be labeled as having a disability
10 versus simply getting the instruction that they need or in
11 some instances the instruction that they were entitled to?

12 So that's the first question as it relates to
13 Mr. Bartlett.

14 DR. VAUGHN: Actually, through funding from the
15 Assistant Secretary Pasternack's office, we're going to be
16 examining precisely that question, about where in the
17 three-tier model students should be -- or it's appropriate
18 to identify them as special education.

19 And I don't know the answer. I mean, like most
20 things, I have an opinion. But I personally think that
21 students deserve at least ten weeks of supplemental
22 instruction before they're identified as special

1 education. I consider that the minimum.

2 Now, whether this Commission would argue that
3 they need two ten-week supplemental instruction before
4 they're identified, and they need to kind of look like
5 that fourth group of ours -- I mean, that fourth group --

6 I don't know if you remember those four groups,
7 but that fourth group that did respond to treatment was
8 distinctly different, and it was distinctly different on
9 our measures, as well, and the rate of progress was
10 distinctly different. To argue that that group would
11 constitute special education would be an argument I would
12 be comfortable with.

13 But many people would argue, from the
14 perspective of the school level, they would say, We don't
15 have the resources to provide 30 weeks of supplemental
16 instruction. I mean, how are we going to do that? So --
17 and I'm willing -- you know, I'm not that invested in it.

18 I'll tell you why I'm not that invested in it,
19 Alan, because from my point of view as long as the system
20 is nimble, you get in and you get out, where a student
21 enters special education becomes less of an investment
22 from my point of view and more a question of how we want

1 to use resources.

2 DR. COULTER: And I understand that. I think
3 part of our problem is we know the data on, you know, now
4 more than 25 years is the longer you're in, the less
5 likely you are to get out. And so once a child has been
6 in for two years, the likelihood of them getting out is
7 almost zero.

8 DR. VAUGHN: We can change that.

9 DR. COULTER: And the effects, I mean, the
10 diploma rates for kids with learning disabilities is
11 actually lower than the diploma rate for kids with
12 disabilities in general. So, I mean, we're talking about
13 significant effects of putting the label on a student for
14 which that nimbleness in the past has not existed.

15 So that's my concern. When do you label? And
16 you know, and I think whether it's at second tier or third
17 tier.

18 Let me just follow up on Commissioner Berdine's
19 comment. I mean, obviously, from my brief reading of your
20 committee's report, I think you have some heartfelt but
21 very serious questions directed at higher education.

22 This particular Commission observes that for

1 the most part the effects on accountability go to the
2 children themselves. In other words, I mean, if kids
3 don't learn, the effects certainly are visited on the
4 children and their families.

5 I think secondly there is obviously a shift in
6 trying to make schools much more accountable and school
7 districts so that when children are not learning, you
8 know, that there are some effects.

9 I am concerned what are -- in what respect is
10 higher education accountable?

11 In other words, I get the impression -- and
12 maybe I got it wrong -- that your report basically is
13 saying that we're turning out a lot of teachers who are
14 not competent to meet the needs of children and that that
15 lack of competence results in overidentification and kids
16 not being successful, et cetera.

17 The current system, while it's shifting the
18 accountability, it's shifting the accountability to spread
19 the responsibility between children and schools. I
20 haven't heard anything about accountability for higher
21 education.

22 So, and speaking as somebody who lives in

1 higher education, as Dan said, should be somewhat
2 politically immune, you know, when are you going to
3 hold -- in what way would you hold us responsible if we
4 don't turn out good people?

5 DR. RESCHLY: All right. Sharon promises to
6 correct whatever I say here, now, and I hope she does.

7 (General laughter.)

8 DR. RESCHLY: It's a problem I've battled
9 personally for many, many years with respect to the
10 training of school psychologists.

11 I would argue that higher education ought to be
12 driven by empirical results related to changes in
13 children's competencies rather than philosophically
14 driven.

15 I think much of higher education with respect
16 to teacher education is philosophically driven. It's
17 driven by a set of premises about what children ought to
18 be like rather than what works with kids.

19 I'm not capable of that sort of high level
20 political analysis of, how do you change the leverage on
21 higher ed? But clearly I would endorse it. It needs to
22 be changed.

1 Don't throw the baby out with the bath water.
2 There are a lot of very good places now. Generally
3 special education training is closer to the mark than
4 general education training in my view, but there's a lot
5 that has to be done in special education, as well.

6 Sharon, bail me out.

7 DR. VAUGHN: Well, no. I think not all
8 programs are the same. That would be an important
9 starting point. There are some good ones. There are not
10 nearly enough good ones.

11 I think that we have to recognize that higher
12 education is not doing bad training on purpose. In other
13 words -- no. I say that because I think we have to
14 understand there is some professional development and
15 knowledge missing in higher education.

16 Not every program is as empirically driven as
17 this Commission would like. There are many programs still
18 teaching folklore and fantasy. And that is a serious
19 problem.

20 And how we jump-start the profession to assure
21 that the knowledge and expertise in higher education
22 across programs -- I think, you are, there are

1 distinguished programs -- but across programs where this
2 Commission would like it to be is a very important
3 question and one I think that if you are able to at least
4 put something into your report it would be highly valued.

5 I think people in higher education are
6 concerned about it, as well. I'm very concerned about it,
7 Dan is very concerned about it. It's embarrassing.

8 MR BRANSTAD: Cherie Takemoto.

9 MS. TAKEMOTO: I have some questions about the
10 mental retardation. This is great. Someone has mental
11 retardation criteria for exiting. So tell me more
12 about -- who are these kids with mental retardation in the
13 high-incidence and how they would get out of special
14 education jail.

15 DR. RESCHLY: Persons with mental retardation
16 vary a great deal. That's almost a truism. But we're
17 particularly concerned about persons with mild mental
18 retardation. Mild mental retardation would be part of the
19 high-incidence group.

20 MS. TAKEMOTO: And how do you define mild?

21 DR. RESCHLY: Mild mental retardation are the
22 persons in roughly the first standard deviation below the

1 mental retardation criterion. In the old criteria using
2 IQ, the IQ is roughly 55 or 60 to 70 or 75, in that group.
3 It's a group that's increasingly being treated or served
4 under the label of learning disability.

5 The mental retardation classification system
6 unfortunately has never distinguished between the mild
7 versus more severe levels of mental retardation and
8 students needing more or less lifelong supports of varying
9 degrees.

10 Persons with mild mental retardation generally
11 are capable of full self-support and independent
12 functioning as adults. So that's kind of the distinction.

13 Persons with mild mental retardation are
14 generally going to need academic support from special
15 education as they go farther into the school curriculum,
16 but they may be very capable of participating in
17 vocational training in general education and should.

18 Does that help at all?

19 MS. TAKEMOTO: So, you know, I am one of these
20 students who have an IQ that would be within the mild
21 mental retardation range, and they were part of the group
22 that you were looking at. And they were -- the kids that

1 got out I'm assuming were kids that were possibly
2 misidentified to begin with or --

3 DR. VAUGHN: Oh. I don't know --

4 DR. RESCHLY: We didn't have the IQ.

5 DR. VAUGHN: We didn't do IQ.

6 DR. RESCHLY: No. No.

7 DR. VAUGHN: There's no IQ on that sample. I
8 don't know.

9 DR. RESCHLY: I'm talking about the traditional
10 criteria. These are kids who would be long-term very low
11 response rate to high quality interventions, and I mean
12 long-term low response rate to high quality academic
13 interventions. And they would be defined by that very low
14 response rate over an extended period of time.

15 MS. TAKEMOTO: But be making some progress --

16 DR. RESCHLY: Yes.

17 MS. TAKEMOTO: -- as opposed to the
18 performance of children in the category in special
19 education, which is --

20 DR. RESCHLY: Well, they would be making some
21 progress. But they would be more likely to be the
22 students that were in that fourth group that Sharon

1 described who would even plateau with that rate of
2 progress by middle school level.

3 MS. TAKEMOTO: My second is about ESEA, and
4 there is going to be a lot of money being placed exactly
5 in the population that you're looking at. So what is the
6 role of that funding pool, that we hope is going to be
7 significant?

8 And maybe it's beyond what this Commission is
9 going to be doing. But how do you see that money keeping
10 kids from having to cross over to the special education
11 area?

12 DR. VAUGHN: Well, if states who compete for
13 this money write good proposals and build models that
14 provide screening, progress monitoring, early and rapid,
15 appropriate interventions like we have talked about here,
16 if they use that money that way, I think it could fit very
17 nicely within a special education model.

18 DR. RESCHLY: Within a special ed prevention
19 model.

20 DR. VAUGHN: A special education prevention
21 model. Yes.

22 DR. RESCHLY: Yes.

1 MS. TAKEMOTO: Yes. Okay. Because it sounds
2 like if that money is out there and available that that
3 should be used to --

4 DR. VAUGHN: Well, states will determine the
5 use of that money. That will not be prescribed. I think
6 the model we are talking about is a highly appropriate
7 model, and, you know, my hope is that states will use it
8 that way, and it's a wonderful prevention model. But how
9 they write their proposals is yet to be seen.

10 The guidelines are pretty specific, and they
11 call for the most scientific based research possible. But
12 how, you know, as I said, how that gets transformed will
13 be yet to be seen.

14 MS. TAKEMOTO: And then, my last -- there is a
15 duration of time between when someone is referred to
16 special education and they do all these testings and when
17 they actually have that eligibility meeting. And it seems
18 to fit within your intervention model, that time period.

19 So you can start the intervention clock ticking
20 when the referral is made, and by the time eligibility
21 comes up, people would have good evidence of how this
22 student has responded to quality instruction.

1 DR. VAUGHN: I suppose I would suggest that
2 that is sort of taking this model and trying to drop it
3 into the model we have right now, which would not be my
4 recommendation.

5 My recommendation would be that we think about
6 very early intervention and not think about it as special
7 education or not even think about it as the path to
8 special education, but think about it as the path to
9 prevention.

10 And that as students respond to this very
11 early, highly responsive -- in fact, sort of, as I said
12 earlier, erring in the direction of providing support --
13 if you're setting the mark for -- in fact, risk is too
14 dramatic -- setting the mark for supplemental instruction
15 pretty high so that a lot of kids get in, and as they
16 respond, then they don't need anything more.

17 And so what you do is think more about
18 triggering special education based on their performance in
19 this supplemental instruction.

20 MR BRANSTAD: Jay Chambers.

21 DR. RESCHLY: Let me just make one comment
22 about that. In terms of cost-effectiveness, it's far less

1 expensive to provide the 20 or more works of small group
2 instruction as part of the general education scheme than
3 to put kids in special ed. Putting kids in special ed is
4 a very, very expensive process.

5 DR. CHAMBERS: Or even to evaluate them.

6 DR. RESCHLY: Both. I'm sorry. Please.

7 DR. CHAMBERS: Your last comment kind of
8 resonates to my question, because it's as if we don't
9 spend money on a child from the special education
10 resources unless the child is somehow identified as
11 special ed.

12 DR. RESCHLY: Right. Right.

13 DR. CHAMBERS: It becomes almost a point of
14 confusion for the schools, who are saying, Well, we've got
15 Title I, we have special education, we have state
16 compensatory education programs. When is a child in one
17 and not the other? Half the children in special ed are
18 LD.

19 And there's obviously a lot of confusion over
20 when a child has a learning disability and when a child is
21 simply eligible -- simply, I say -- eligible for Title I
22 or some other kind of compensatory education program.

1 So I guess my question relates to a use of
2 funds. What is the role, or from what you're talking
3 about, the kinds of programs you're talking about, what do
4 you see the role of Title I and special education
5 providing these types of programs? When is the
6 distinction?

7 DR. RESCHLY: In many places those processes
8 have been combined such that, especially in small school
9 attendance centers, Title I and special education
10 cooperate fully.

11 And I think the panel would argue that we need
12 greater integration of special and general education along
13 those lines.

14 Moreover, I think special education personnel,
15 especially related services personnel, have to be
16 available to general educators to prevent the development
17 of disabilities or the required recognition of
18 disabilities through more effective interventions. And
19 that's especially true on the behavioral side.

20 DR. VAUGHN: And if this were recommended to
21 begin tomorrow, we would be in really deep yogurt, because
22 the personnel are not available at this time, while we are

1 speaking, to do this.

2 I mean, you know, I don't mean to say this
3 dramatically, but most people don't do the wrong thing on
4 purpose.

5 And so we have a tremendous job ahead of us in
6 terms of knowledge dissemination and skills development so
7 that states, schools, and districts have the capacity to
8 pull this off and to pull it off well.

9 MR BRANSTAD: Reid Lyon.

10 DR. LYON: Dan, when you started out, you
11 talked about a program that you had developed in Iowa that
12 seems to incorporate these parts of this, and it was a
13 concrete example of a new categorization of special
14 education prevention model and what I understand to be a
15 very high quality process monitoring system.

16 What are the conditions under which you were
17 able to do that in concrete terms? Because if it
18 incorporates these concepts, we're going to need very good
19 models.

20 DR. RESCHLY: Well, and let me say that the
21 Iowa model could be improved dramatically in a number of
22 ways. But it's a model -- we started out with no models,

1 you know.

2 DR. VAUGHN: Yes.

3 DR. RESCHLY: And so how it was done in Iowa
4 was cooperation on the part of the universities, State
5 Department of Education, local and regional education
6 agencies with support from key legislative leaders, the
7 Governor's office and support from the Federal Department
8 of Education.

9 OCEP has never been the major barrier to
10 changes in the states in my experience.

11 The critical thing I think is to teach people
12 first to think differently about children and that rather
13 than, We're going to try to find what's the underlying
14 internal deficit displayed by the child that justifies the
15 disability label, change that thinking to, What can we do
16 to improve instruction and improve behavioral competencies
17 regardless of what the child is called?

18 That the fundamental issue of helping that
19 child develop better competencies remains whether he or
20 she stays in general or goes to special education.

21 Now, there are huge benefits to making those
22 interventions effective in general education, huge

1 benefits to the child, huge reductions in costs for the
2 education of that child.

3 And I think it's a matter of, it's difficult.
4 It took us a number of years to do it. We had people that
5 were very resistant. We had some people that left Iowa
6 because of it. We had a number of people, believe it or
7 not, that left Iowa.

8 We had a number of other people, though,
9 believe it or not, who came to Iowa and who are still
10 there because of it, because they wanted to come someplace
11 to practice special education like it ought to be
12 practiced. And so we had a net, I think it was a net
13 benefit in terms of our personnel.

14 DR. LYON: Well, how did you configure the
15 teacher preparation responsibilities within this model? I
16 mean, that would seem to be --

17 DR. RESCHLY: That's a great question. The
18 agencies in the state put a lot of money into continuing
19 education. Of these 20-some teacher education training
20 sites in the state there were only a couple that were
21 really training people.

22 But the field then started demanding people

1 like that, and then we changed the behavior. You change
2 the behavior, then you change attitudes, in my view.

3 And we changed the behavior, we changed the
4 demand for the kind of personnel, and then the teacher
5 training institutions came along. I'd like to say the
6 universities led, but that's not true.

7 MR BRANSTAD: Doug Gill.

8 DR. GILL: Well, actually, my questions have
9 shifted over the last half-hour when I got on the list to
10 ask a question.

11 (General laughter.)

12 DR. GILL: So I guess what I'm going to ask you
13 is, to what extent do you think there would be unintended
14 consequences for these particular proposals, first of all?
15 And second of all, are there any questions that we didn't
16 ask that you hoped we would not ask?

17 DR. VAUGHN: I think the question of unintended
18 outcomes is a very thoughtful, provocative question.

19 And basically my interpretation of the question
20 is to ask us to predict what might go wrong and how
21 individuals with disabilities might be not better served
22 and who those individuals might be and how we could build

1 the capacity for correction early if we could make those
2 predictions.

3 I personally think that we have no choice but
4 change. But I think you're saying -- and I agree with
5 you wholeheartedly -- that we want responsible change.

6 DR. GILL: Yes. I guess I don't want to shift
7 one group for another.

8 DR. VAUGHN: Yes.

9 DR. GILL: This is not a trade-off kind of
10 thing.

11 DR. VAUGHN: Right. Absolutely.

12 DR. GILL: So we get one group who currently
13 has procedural protections, and then we say, Okay, now you
14 don't have procedural protections anymore because we're
15 calling you interventions or whatever.

16 DR. VAUGHN: No. And I actually think the
17 model that we brought to you today is really a model for
18 high-incidence disabilities. It is not a model for low-
19 incidence disabilities.

20 My guess -- and your Commission will determine
21 this for yourselves. But my guess is that what we are
22 doing for low-incidence disabilities is pretty good and

1 that we might have some work to do, but we certainly
2 wouldn't want to put the recommendations that we have in
3 place here in place for low-incidence disabilities. I
4 think that would be a very bad idea.

5 But I also think it's a bad idea to take what's
6 working for low-incidence disabilities and apply it to
7 high-incidence disabilities. I think that's an equally
8 bad idea.

9 So I think we have to be more flexible about
10 how we do this, and I think we have to do it with as much
11 foresight as we can gather and with as much knowledge as
12 we can gather.

13 But I -- I'm going to say more about myself
14 than I want to. But I taught prior to Public Law 94.142,
15 and I taught after Public Law 94.142, and it was better.
16 And we had no research to support Public Law 94.142, we
17 had no research at all. We had tremendous civil and
18 professional and personal rights. It was a good decision.

19 And now it's time to think about how we adjust
20 again particularly to individuals with high-incidence
21 disabilities to assure they get the most appropriate
22 education, because I can't tell you that I'm certain

1 that's what's going on right now.

2 MR BRANSTAD: David.

3 MR. GORDON: I just want to push you a little
4 bit more on the teacher preparation issue, because I think
5 it's absolutely central.

6 What would you do specifically in the teacher
7 preparation programs to bolster them to achieve the kinds
8 of goals within your model?

9 DR. VAUGHN: There are several issues that
10 would have to be addressed. One issue is that we actually
11 have a shortage right now in higher education. I don't
12 know if you're aware of that. But in order to find really
13 high quality personnel for teacher preparation, that pool
14 is not very large. So number one, we really do have a
15 shortage.

16 Number two, we have a shortage of personnel
17 whose perspective is aligned with this model and who have
18 the knowledge, skills, and expertise to carry it off. So
19 we need to provide some support.

20 I believe the issues are different in terms of
21 special education training and general education training;
22 I don't think they're the same.

1 We have enormous issues when it comes to
2 teacher preparation in general education. We have work to
3 do in special education, but I see that work -- I have a
4 vision for how we could do it, because we mostly have
5 people in line. It's not like we have this question of, I
6 have a philosophy that's different than yours.

7 The problem we really do have, in my judgement,
8 in teacher training in general education is that I don't
9 even know how many people we've got on the boat, you know,
10 I mean, much less where we're going to get all the paddles
11 and equipment. I mean, I'm really serious about that.
12 It's daunting what the task is, it's daunting.

13 So that's no answer, and I recognize that, but
14 I used up a few minutes.

15 (General laughter.)

16 DR. RESCHLY: I agree with what Sharon said.
17 And I think that the critical issue in general education
18 is the training of, by and large, elementary school
19 teachers especially.

20 I'm not here to comment on math education,
21 science education, et cetera because I'm not
22 knowledgeable, and I don't think those are the principal

1 problem areas.

2 I think the real problem area is the training
3 of teachers of young children, pre-school, early
4 elementary, and so on.

5 And I think somebody needs to start with a
6 clear specification of the skills that are needed, the
7 competencies that are absolutely essential, and then look
8 at mechanisms to make sure that happens.

9 And it's time, as it was with medical education
10 100 years ago. There is a body of knowledge, and it's
11 time to make sure everybody has got that and further has
12 operational competence, meaning they can deliver it, that
13 body of knowledge.

14 And at this stage some of that is not rocket
15 science. There is a lot yet to be known, but there's a
16 lot known that needs to be done.

17 MR BRANSTAD: I'm going to cut off the
18 questioning now. We have gone over.

19 First of all, I want to thank Dan and Sharon
20 for their enlightening research and forthright responses
21 and answers to the questions.

22 I think it's obvious from the questions, the

1 diversity of questions from the panel, that there's a lot
2 of interest in this. And I'm sure we'll want to have some
3 informal discussions, as well.

4 But we're going to break and reconvene here at
5 10:50. There's a break scheduled. We're running a little
6 behind. We started a little late.

7 And I just want to thank all of you for your
8 participation. I think we had excellent presentations and
9 great questions.

10 (Applause.)

11 MR BRANSTAD: So we're going to cut it off.
12 We'll be back at 10:50.

13 (Whereupon, a short recess was taken.)

14 MR BRANSTAD: Okay. For our second panel --
15 first of all, I want to thank Sharon Vaughn, who is going
16 to participate again on short notice, and we appreciate
17 your pinch-hitting and doing a double-header for us today.
18 And we appreciate that very much.

19 And our other presenter is David J. Francis.
20 Dr. David Francis is a Professor of Quantitative
21 Psychology in the Department of Psychology and is the
22 Director of the Texas Institute for Measurement,

1 Evaluation, and Statistics at the University of Houston
2 here in Houston, Texas.

3 He received his doctorate and Master of Arts
4 from the University of Houston in Clinical
5 Neuropsychology.

6 Francis received clinical training in
7 Neuropsychology at Baylor College of Medicine, Texas
8 Research Institute of Mental Sciences, and the University
9 of Texas Medical Branch, Galveston.

10 He also trained in biofeedback treatment at
11 Texas Research Institute of Mental Sciences and the John
12 F. Kennedy Institute.

13 Francis received many grants to conduct
14 research concerning children with learning disabilities.
15 He serves as a consulting editor to numerous journals that
16 focus on neuropsychology, psychology, and learning
17 disabilities.

18 Along with his longstanding membership in the
19 American Psychological Association (APA), Francis belongs
20 to the American Educational Research Association, American
21 Statistical Association, International Neuropsychological
22 Society, National Council on Measurement in Education,

1 American Psychological Society, National Association for
2 Bilingual Education, Society for Prevention Research, and
3 the National Assessment of Educational Progress.

4 Francis serves as an advisor to the Advisory
5 Council on Education Statistics at the U.S. Department of
6 Education and the Education Quality Institute.

7 He also sits on: the National Assessment
8 Governing Board Task Force on the Use of NAEP to
9 Corroborate State Test Results; the Scientific Advisory
10 Committee on Acquiring Literacy in English; the Mental
11 Retardation Research Subcommittee of the National
12 Institute of Child Health and Human Development Initial
13 Review Group; the Greater Houston Partnership's Task Force
14 on Reform of Secondary Education and Student Dropout Rate;
15 the Families in AIDS Research Network; National Advisory
16 Panel of the Center for the Improvement of Early Reading
17 Achievement; and the National Reading Panel, National
18 Institute of Child Health and Human Development, Office
19 for Educational Research and Improvement.

20 Francis' work and research is recognized by,
21 among others, the APA, the University of Houston (Teaching
22 Excellence Award), and the Texas Research Institute of

1 Mental Sciences (fellowship).

2 So I am very pleased to present Dr. David J.
3 Francis, Ph.D. And we're very proud to be in your
4 community here of Houston and honored to have you make a
5 presentation.

6 DR. FRANCIS: Thank you very much. And thank
7 you for having me, and thank you for all your hard work in
8 this really important area that you're trying to make
9 progress in.

10 And in listening to those associations, I think
11 maybe I'm paying too many dues. Maybe I should cut back a
12 few of those.

13 (General laughter.)

14 DR. FRANCIS: What I want to do today is to
15 talk to you about the IQ-Achievement Discrepancy Model,
16 which, as you know, is the primary vehicle by which
17 children become identified as having learning -- or
18 individuals become identified as having learning
19 disabilities.

20 And I want to talk to you about that particular
21 approach to identification and in particular the
22 limitations of it and the problems associated with it and

1 whether or not we should in fact continue that.

2 Can you all hear me okay? You should have a
3 copy of the handout. And I'm going to go through it. I
4 won't go over each slide in detail, but will try to
5 summarize the information there.

6 There are really four main points that I hope
7 to address, and in particular this is that the validity of
8 the concept of learning disability does not hinge on the
9 validity of any particular approach to identifying
10 individuals with learning disabilities.

11 An IQ-Achievement Discrepancy is an approach to
12 identification of learning problems, learning
13 disabilities, and the validity of the concept of learning
14 disability does not hinge on the validity of that approach
15 to identification.

16 I hope to show through a summary of research in
17 this area that in fact IQ-Achievement Discrepancy is not a
18 valid means for identifying individuals with learning
19 disabilities and that in fact it is not getting us where
20 we want to go, that in fact there is no compelling need
21 for the use of IQ tests at all in the identification of
22 learning disabilities.

1 And that if in fact we eliminated IQ tests from
2 the identification process of learning disabilities it
3 would shift the emphasis in special education away from
4 the current focus, which is on eligibility and determining
5 whether or not students are eligible for services, away
6 from eligibility and towards getting children the kinds of
7 interventions that they need to be successful learners.

8 So those are the four key points that I will
9 attempt to address. And I'll try to get there in the
10 following way:

11 We'll go over some background on definition and
12 identification of learning disability, and what is
13 discrepancy, and how is it that discrepancy came to be so
14 popular and so widespread?

15 I'll talk a little bit about validity. Since
16 the title of this talk is, Is IQ-Achievement Discrepancy a
17 Valid Indicator of Learning Disabilities, it's important
18 for me to articulate just what I mean here by validity and
19 in particular in this context of learning disability and
20 in the use of the IQ-Achievement Discrepancy model.

21 And then we'll actually look at some of the
22 evidence for validity, and most of that evidence we'll see

1 comes down against -- is evidence against the validity of
2 IQ-Achievement Discrepancy.

3 And of course if we're not going to use IQ-
4 Achievement Discrepancy to identify individuals with
5 learning disabilities, we need an alternative, and I'm
6 going to suggest several alternatives that have been
7 discussed in the literature.

8 And I just want to summarize with, if IQ-
9 Achievement Discrepancy is not a means for identification,
10 is there really a role for IQ tests to play in the
11 identification process? And I will argue that there
12 really is not.

13 So why discrepancy? Really, the idea of
14 discrepancy hinges from very early ideas about learning
15 disability and the idea that a learning disability is in
16 some sense an unexpected underachievement, that is,
17 children are not achieving at levels that we would expect
18 them to.

19 And so when we start with this idea of what we
20 would expect the student to attain and the achievement for
21 that student is less than what is expected, we need to
22 think in terms of, Well, how do we derive this

1 expectation? Where does this expectation come from?

2 The IQ-Achievement Discrepancy model is
3 basically a means for identifying children with learning
4 disabilities, that is, those individuals whose achievement
5 is below expectation in individuals who are not
6 intellectually deficient so that the underachievement is
7 not due to an intellectual deficiency.

8 This model presumes that children whose low
9 achievement is discrepant from their IQ constitute a class
10 of children that we can say in fact meet some standard of
11 unexpected underachievement.

12 But it further presumes that children who meet
13 this qualification standard, that is, whose achievement is
14 discrepant from IQ, that these children are qualitatively
15 distinct from individuals who do not meet that distinction
16 so that inherent in the concept of learning disabilities
17 is a set of classes of individuals who are qualitatively
18 distinct from other individuals.

19 And what we want to do -- and if in fact there
20 are classes of individuals who are different qualitatively
21 in their skills and how they utilize their skills to
22 attain achievement outcomes, then any method that we use

1 for identifying individuals into those classes must in
2 fact result in classes that are qualitatively distinct
3 from one another.

4 And we'll talk a little bit more about what
5 that means and whether or not there is in fact any
6 indication that IQ-Achievement Discrepancy accomplishes
7 that for us.

8 The discrepancy model has been with us for some
9 time. And if we look back historically, we see that in
10 fact it was an attempt to operationalize criteria for
11 learning disabilities.

12 When 94.175 was passed, states needed
13 assistance in determining who qualified. And IQ-
14 Achievement Discrepancy introduced as a means of
15 operationalizing this definition of unexpected
16 underachievement.

17 So if we look back at the Federal definition of
18 learning disabilities, then, and look at the regulations
19 that were put into place to qualify individuals, we'll see
20 where this comes up.

21 If we look back at the definition of learning
22 disability, what we see is discrepancy is not in this

1 definition. In fact it is a disorder in one or more of
2 the basic psychological processes involving the use of
3 language, either spoken or written, that manifests itself
4 in terms of ability to listen, speak, read, write, spell,
5 do mathematical computations.

6 There is nothing in that particular language
7 that introduces the notion of discrepancy.

8 But in the regulations in 1977, in order to
9 operationalize this idea of a disorder in basic
10 psychological processes, the notion of a discrepancy gets
11 introduced. And again this hinges from this underlying
12 concept of unexpected underachievement. And the
13 expectation was determined that it should be measured in
14 terms of intellectual ability.

15 And the notion of intellectual ability became
16 operationalized as an IQ test.

17 This notion continues on in the later
18 regulations in 1997 and, as you know, is still in use
19 today. And you can see where the language has crept in in
20 terms of a discrepancy between ability as indexed by some
21 test of ability and achievement.

22 So what does it mean to talk about validity in

1 this context of learning disabilities and in the context
2 of IQ-Achievement Discrepancy?

3 Well, I would argue that the concept of
4 learning disability implies one or more qualitatively
5 distinct classes of learners that differ from those
6 classes of learners that do not have learning
7 disabilities.

8 That if we had the magic lens and we could look
9 at everyone and determine who has a learning disability,
10 who does not, that we would find that those with learning
11 disabilities are qualitatively distinct either in terms of
12 the kinds of abilities that they have or how they utilize
13 those abilities to arrive at their achievement outcomes.

14 That they would look different in terms of
15 their skills or how they utilize those skills from
16 individuals who do not have learning disabilities.

17 And the validity of the concept of learning
18 disability really hinges on the existence of these
19 distinct classes of learners, not on our ability to
20 identify who does and does not fall into these different
21 classes.

22 The utility of the concept hinges on our

1 ability to classify individuals accurately into these
2 different classes, but the validity of the concept does
3 not.

4 But IQ-Achievement Discrepancy is a means by
5 which we go about this process of identification. So the
6 validity of IQ-Achievement Discrepancy as a process for
7 identification hinges on its ability, that is, IQ-
8 Achievement Discrepancy's ability to uniquely sort
9 individuals into classes that are unique and distinct one
10 from another.

11 So I would argue that IQ-Achievement
12 Discrepancy as a model or a means for identification
13 demonstrates validity in its weakest form. It
14 demonstrates validity in the sense of face validity.

15 And psychometricians talk about validity in
16 terms of, This is what I want to measure, and this is what
17 I'm using to measure it, and it looks like this does the
18 job. That's face validity. It has the appearance of
19 mapping to the thing that I'm trying to measure. And that
20 is the weakest form of validity evidence.

21 And really face validity is insufficient to
22 justify the use of the IQ-Achievement Discrepancy model,

1 especially in what I would argue are high stakes decisions
2 about the kinds of services that children are to get.

3 And in fact, if IQ-Achievement Discrepancy is a
4 valid means of identifying individuals with learning
5 disabilities, it will yield classifications of individuals
6 who differ qualitatively one from another.

7 There are different kinds of evidence that we
8 might look to to determine whether or not IQ-Achievement
9 Discrepancy is accomplishing this goal of yielding classes
10 of individuals who are qualitatively distinct one from
11 another.

12 For example, the groups of individuals
13 identified through this model might differ in terms of
14 specific sorts of background characteristics like the
15 presence of neurological signs or genetic markers or
16 incidence with respect to gender, which would serve as a
17 proxy for a potential genetic marker.

18 It might yield groups of individuals who show
19 qualitatively distinct profiles of cognitive ability, or
20 it might be that individuals identified through this model
21 would differ in terms of their educational prognosis or in
22 terms of their responsiveness to intervention.

1 These are four different kinds of evidence that
2 we might look to to see, does in fact application of the
3 IQ-Achievement Discrepancy model yield groups of
4 individuals who differ in these particular ways?

5 And I'm going to go over some of that evidence,
6 and I'll try to summarize it as much as possible. But the
7 bottom line is, IQ-Achievement Discrepancy does not hold
8 well up in terms of any of these forms of validity
9 evidence.

10 So it's important to understand what we're
11 talking about when we talk about IQ-Achievement
12 Discrepancy versus other individuals.

13 And I don't know if you've seen a plot like
14 this before, but I'm going to take a minute to go over it.
15 And I guess I can't walk away from the microphone to do
16 that. Right? Okay.

17 Do we have a pointer, or do I use like shadow
18 puppets or something?

19 (General laughter.)

20 VOICE: Actually, you can take the mic.

21 DR. FRANCIS: Take the mic? Okay.

22 Okay. When we have two skills and those two

1 skills are correlated, and if I plot those skills against
2 one another, what I'll get is a shape that looks a little
3 bit like a football.

4 What I have here on the horizontal axis is IQ
5 scores, and what I have on the vertical axis are
6 achievement scores. And each point on this graph
7 represents an individual student's score.

8 And it turns out that these are IQ scores in
9 Grade 3 and achievement scores measured in Grade 3. And
10 these are real data. They represent real individual
11 children.

12 This line right here, this one that's on an
13 angle, is a regression line that is set off from the
14 actual regression line that indicates anyone who scores
15 below that regression line actually has an achievement
16 score that is below what we would expect for them given
17 their IQ score.

18 So in fact all of these little triangles
19 represent individual children who qualify for disability
20 under an IQ-Achievement Discrepancy model. Okay?

21 This line right here, this horizontal line, is
22 actually a low achievement line. So individuals who fall

1 below this low achievement line are individuals whose
2 achievement is low. And if they also fall below the
3 discrepancy line, then they are children who are both low
4 achieving and IQ-achievement discrepant.

5 And these individuals, these circles, are
6 individuals who are low achieving but do not qualify as
7 learning disabled in terms of an IQ-Achievement
8 Discrepancy model, so they fall -- their scores are above
9 the discrepancy line, but they are below the low
10 achievement line.

11 And so one of the things that we would
12 certainly like to know is, if the IQ-Achievement
13 Discrepancy model is a valid means for identifying
14 individuals with learning disabilities, then we would
15 expect that these individuals who are below this line, the
16 discrepancy line, should be different in some way than
17 these individuals who are below the low achievement line
18 but above the discrepancy line.

19 That they should differ qualitatively one from
20 another, and not just quantitatively, because notice that
21 at any given level of IQ the lowest achieving individuals
22 are the ones that fall below the discrepancy line.

1 So if I was looking at two children both with
2 an IQ of 100 and a child falls below the discrepancy line,
3 but to compare that to a child above the discrepancy line,
4 the one below the discrepancy line is going to have lower
5 achievement.

6 So in general children who qualify under
7 discrepancy are the lowest achieving at any given IQ
8 level.

9 But that's a quantitative distinction, it's not
10 a qualitative distinction. It's one of degree, not one of
11 kind. Okay? Is that clear?

12 Any questions about this graph? Because it's
13 important to understand this graph, I think, because
14 ultimately when we talk about IQ-Achievement Discrepancy
15 we are talking about this model. And this is an attempt
16 to find a way to carve up this two-dimensional space in a
17 way that it maps onto our concept of a learning
18 disability.

19 MR. BARTLETT: Again what is the definition of
20 the discrepancy line?

21 DR. FRANCIS: This discrepancy is -- there are
22 a number of different ways that we could define a

1 discrepancy with respect to IQ.

2 But the model that functions the best in terms
3 of its psychometric properties is one that uses a
4 statistical technique called regression to predict the
5 achievement scores from the IQ scores, and then it looks
6 to see if the observed achievement falls far enough below
7 that predicted score.

8 So this line that I've put in here is not
9 actually the regression line that shows the prediction of
10 achievement from IQ, but rather the line that actually
11 indicates how far below kids have fallen, so that their
12 observed scores are actually far enough below their
13 predicted score that we would say this is a problem.

14 So it actually is far enough below the
15 predicted score that it actually meets sort of statistical
16 evidence for indicating that it's further away than we
17 would expect due to chance. Okay?

18 So anytime I have two skills that are related,
19 I can use one skill to predict where the other skill will
20 be.

21 And again, the more highly related these two
22 skills are the more this thing is going to look like a

1 football. And actually, as they become more and more
2 highly related, it gets longer and longer and skinnier and
3 skinnier and becomes more like a line, so that if they
4 were perfectly related I would end up with a line.

5 So does that answer your question? That
6 discrepancy is, it's a difference between what we predict
7 for that individual and what we observe for that
8 individual.

9 And the line is drawn at a place that indicates
10 that anybody below that, the difference between their
11 actual score and what we predict for them is big enough
12 that we would say this is not just due to measurement
13 error. Okay?

14 So there are a number of different kinds of
15 classification that we might want to look to in terms of
16 thinking about validity. And each of these is a kind of
17 means that we might attempt to validate.

18 And the one that we're going to really focus on
19 here is the distinction between IQ-achievement discrepant
20 and those individuals who are simply low achieving.

21 The first evidence for discrepancy versus low
22 achievement came from a set of studies known as the Isle

1 of Wight Studies published in the early '70s, the middle
2 '70s, by Rutter and Yule where they demonstrated that in
3 fact there appeared to be these two distinct groups of
4 individuals, those that were discrepant, those that were
5 not.

6 And in fact that they differed in a number of
7 characteristics such as gender, specificity such as
8 presence of neurological signs, and their prognosis.

9 But attempts to replicate this research have
10 not been successful. There have been at least five
11 subsequent epidemiological studies that have looked at
12 this issue and have not replicated the results from the
13 Isle of Wight studies.

14 This slide summarizes the evidence from those
15 five epidemiological studies in terms of looking at
16 whether or not in fact there was this clump of children,
17 sort of this natural break in the IQ-achievement
18 distribution.

19 And you can see that none of these studies
20 really found that. The only one that did had somewhat of
21 a flaw in it in the sense that it really didn't have a
22 sufficient representation of older students in it.

1 But even if there wasn't this break, this sort
2 of natural occurring break in the IQ-achievement joint
3 distribution, it's still possible that discrepant and non-
4 discrepant children are -- or let's call them discrepant
5 and consistent children -- might differ in some way.

6 And there are several different areas where we
7 might look to see differences, one of which would be
8 cognitive characteristics. Do they differ in their
9 profiles of strengths and weaknesses? Do they have
10 different educational prognoses? Do they differ in terms
11 of how responsive they are to intervention?

12 These are all different kinds of validity
13 evidence that we could look to to say, yes, if in fact we
14 find a difference between low achieving and discrepant
15 children, that in fact there is some evidence for validity
16 of this distinction.

17 There's been a number of meta-analytic studies
18 that have been done recently. Two of the larger ones, one
19 by Hoskyn and Swanson came out recently in 2000, another
20 one by Stuebing et al. is in press.

21 Hoskyn and Swanson reviewed 19 studies, and
22 they had specific criteria they had to be able to

1 determine. The studies had to use clear criteria for
2 identifying discrepant and low achieving students; they
3 had to include this distinction between discrepant and low
4 achieving students.

5 And when they went back and looked at the
6 results over a number of different achievement areas
7 related to reading -- and they were focused particularly
8 on reading -- both in terms of real word reading, pseudo
9 word reading, general phonological processing, and
10 automaticity, which is sort of the speed with which
11 students recognize letters and words.

12 What we see here are effect sizes. And over to
13 the right are competence intervals on those effect sizes.
14 And if there was a difference, we would expect that those
15 numbers would be either negative and large or positive and
16 large and that the competence interval would not include
17 the number 0.

18 And you can see that in fact there are
19 negligible effects. There are negligible differences
20 between IQ-achievement discrepant children and low
21 achieving individuals in terms of these core process areas
22 related to reading. That's not good from the standpoint

1 of validity evidence.

2 Stuebing and her colleagues looked at 46
3 studies. And again here the groups had to be clearly
4 identifiable as either IQ-achievement discrepant or IQ-
5 achievement consistent. And there had to be variables in
6 addition to the ones that were used to form the groups.
7 There had to be other measures that would be used to
8 validate the groups in the 46 studies that she looked at.

9 This table summarizes the effects that she
10 found, the effect sizes that she found both in the areas
11 of behavior and achievement and in cognitive ability.

12 And you see that these differences are very
13 small and that there doesn't appear to be any sort of
14 qualitative distinction, meaning that there are areas
15 where there's no difference, and then there's areas where
16 there's big difference, indicating that somehow their
17 profiles of abilities are different in these groups.

18 In fact this profile across behavior and
19 achievement and achievement and cognitive ability is
20 relatively flat, and the differences are very small.

21 Again this is evidence against the validity of
22 IQ-Achievement Discrepancy as a means for identifying

1 those children with learning disability and those without.

2 This is a picture of cognitive profiles of
3 groups of children, those who are IQ-achievement
4 discrepant, the solid line is the discrepant group, the
5 dash line is the IQ-consistent group.

6 And what you see is that these profiles are
7 largely overlapping. The standard deviation for a test
8 here is 1. So you can see that all of the differences are
9 well within a standard deviation in size, and in fact most
10 of the differences are very, very small.

11 And you see the differences -- because you're
12 going to look at a couple of other graphs like this. What
13 we have across the bottom are specific skill areas. And
14 this is the average for a group on that skill area, so the
15 line shows the average for the group in that skill area.

16 And so to the extent that these skill areas
17 go -- that the mean for one skill area is higher than the
18 mean for another skill area indicates that that's a
19 relative strength in that skill.

20 So for example, what we see is that these
21 groups have a deficit in phonological processing, but they
22 have a similar deficit in phonological processing in that

1 the two lines are right on top of each other there.

2 So these individuals are not distinct with
3 respect to their phonological deficits, that is,
4 individuals with IQ-achievement discrepancy are not
5 distinct in their phonological deficits relative to
6 individuals that are low achieving.

7 How much time do I actually have, since we
8 started at 10:50?

9 MR. JONES: Actually, you have another ten
10 minutes.

11 DR. FRANCIS: Okay. Great.

12 So the current indication is that when we look
13 at cognitive abilities, that is, for reading disabilities,
14 and we summarize the studies that have been done to date,
15 we don't find a lot of evidence for IQ-Achievement
16 Discrepancy.

17 But what about other forms of LD? All these
18 studies were looking at reading. What about math, and
19 what about speech and language disabilities?

20 Well, in fact, when we look at math disabled
21 groups we don't see a difference in -- and here we're not
22 looking at specific math skills, we're actually looking at

1 other skills. We're looking at skills not used to
2 identify the groups. And what we find is not a difference
3 in kind, but a difference in degree.

4 And remember, when you think about that two-
5 dimensional plot that we looked at, we already said that
6 we're splitting the groups in terms of degree. The
7 question is, do they also differ in kind?

8 And in fact these profiles indicate a high
9 degree of similarity for math achievement, IQ-achievement
10 discrepant and math achievement, low achieving groups, so
11 no evidence of validity here, either.

12 But there are distinctions between math
13 disabled and reading disabled. That is, children that get
14 identified as having problems primarily in math look
15 different qualitatively from children identified as having
16 problems in reading.

17 That's evidence in favor of the validity of the
18 concept of specific learning disabilities, although it
19 doesn't speak to evidence of validity of IQ-Achievement
20 Discrepancy within any one of those skill areas.

21 When we look at speech and language we find
22 essentially the same issue, that is that IQ-achievement

1 discrepant individuals are not different qualitatively
2 from those that are simply identified as low achieving.

3 And the consensus report from the National
4 Institution of Deafness and Communication Disorders has
5 specifically recommended against the use of IQ referencing
6 in identifying children with specific speech and language
7 problems.

8 But what about in terms of prognosis? We said
9 another possible source of validity evidence would be if
10 achievement outcomes were different for low achieving and
11 IQ-achievement discrepant individuals.

12 This graph is actually a graph that shows the
13 achievement outcomes for individuals that are not reading
14 impaired, that's the top line; individuals who are low
15 achieving, that's the line with the solid circles; and
16 individuals who have specific reading disabilities, that
17 is, those who are IQ-achievement discrepant, and that's
18 the line that's a solid line without any circles.

19 And the reason you can't see it is because it
20 lies directly on top of the line for children who are low
21 achieving.

22 The only place where there is actually a

1 difference is down at the very beginning, around seven and
2 eight, and the difference is minuscule and not
3 statistically significant.

4 So what this graph shows is, it's a plot of
5 achievement over time in terms of reading achievement.
6 And what it shows is that the prognosis for these two
7 kinds of individual are literally identical.

8 And then, the final piece of evidence that we
9 said we would look at was responsiveness to intervention.
10 That is, if I apply the same interventions to individuals
11 who are low achieving and those who are IQ-achievement
12 discrepant, do they respond differently to those
13 interventions?

14 Again, differential responsiveness to
15 intervention would be an indication that somehow the
16 individuals are qualitatively different one from another.

17 There have been a number of studies that have
18 looked at this, and in general there has not been evidence
19 to support this idea that IQ-achievement discrepant
20 individuals respond differently to intervention than
21 individuals who are low achieving.

22 So to summarize the validity evidence for IQ-

1 Achievement Discrepancy, Stanovich & Siegel summed it up
2 by saying that "neither the phenotypic nor the genotypic
3 indicators of reading indicators of poor reading are
4 correlated in a reliable way with IQ discrepancy."

5 That's another way of saying there is no
6 evidence that this approach to identification yields valid
7 groupings of individual students.

8 We saw that with respect to the characteristics
9 of the individuals that fall into the class of discrepant
10 and low achieving; we saw it with respect to their
11 cognitive profiles; we saw it with respect to their
12 prognosis for educational outcomes; we saw it with respect
13 to their responsiveness to intervention.

14 And I would argue that the failure to find
15 validity evidence for IQ-Achievement Discrepancy as a
16 means for identifying individuals with learning
17 disabilities is a direct consequence of the approach that
18 is taken in IQ-Achievement Discrepancy.

19 And by that I mean it is a psychometric
20 statistical necessity that we find this, because in
21 essence what we are doing is making a quantitative
22 categorization of a continuous distribution and hoping to

1 find something qualitative within that quantitative
2 distinction.

3 So the patterns that we see in terms of
4 differences among children who meet the discrepancy
5 definition and those who do not meet the discrepancy
6 definition are perfectly predictable from the process that
7 we're using for this identification, and we would predict
8 that they would not look different.

9 And in fact, we see instability in terms of
10 class membership. If we classify students at one point
11 and then reclassify them at another point in time, there's
12 instability. The degree of instability is perfectly
13 predicted from the psychometric properties of the tests.

14 I can actually take artificial data that is
15 just jointly distributed like IQ and achievement, and I
16 can create exactly the same problems that we see in real
17 IQ-achievement data.

18 The process is arbitrary. And consequently,
19 when we look for validity evidence of this distinction, we
20 don't find it.

21 I'm going to jump over this. You have the
22 slides, so you can look at it.

1 Because what I want to talk about is other
2 approaches. Because if you're not going to use IQ-
3 Achievement Discrepancy we need to think about, what
4 alternatives do we have?

5 And a number of alternatives have been
6 discussed. Fletcher has talked about using evidence based
7 approach.

8 Torgesen has talked about focusing on
9 background component skills. That is, we have a pretty
10 good idea, especially now, a pretty good idea about the
11 component skills that are important to reading outcomes.

12 And in fact, we can predict how students will
13 do in reading on the basis of those component skills,
14 things like phonological awareness, things like letter
15 name knowledge, letter naming fluency, word reading
16 fluency, vocabulary, those skills that we know contribute
17 to students' abilities to decode words and understand what
18 it is that they've read.

19 We can use impairment as indexed by poor
20 performance on these component skills as a basis for
21 identification and then intervene on the basis of those
22 impairments on the component skills.

1 And we can intervene much earlier when we look
2 for impairments on the component skills than if we have to
3 wait until the discrepancy between IQ and achievement has
4 reached a magnitude that students qualify under current
5 approaches.

6 So in fact, a component skills model is one
7 that can be implemented much earlier from the standpoint
8 of providing interventions to students and hopefully
9 leading them to successful outcomes.

10 Another approach that has been discussed that I
11 wanted to touch on is responsiveness to intervention as a
12 means for identification. And that is, when you see a
13 student that is struggling to acquire a specific academic
14 outcome, provide interventions, provide interventions that
15 we know work.

16 If students don't respond -- and we know that
17 some students do not respond to good interventions; even
18 when those interventions are well delivered -- students do
19 not show the kind of gains that we wanted to see, use
20 responsiveness to intervention over time as an indication
21 that this student has a specific disability which is
22 preventing them from responding to these interventions,

1 and we need alternate interventions for those students.

2 So this focuses our attention more on providing
3 students with the services that they need rather than the
4 process of making sure that we can qualify them and get
5 them eligible under a psychometric definition.

6 Well, one of the other points that I said that
7 I wanted to make was, what role for IQ tests in learning
8 disability identification?

9 And I think it's clear that, if there is a role
10 for IQ tests, it is a very minimal role, and I would argue
11 that in fact it could be done away with.

12 What we need to know is that students have the
13 capacity, the intellectual capacity, to learn what it is
14 that we're trying to teach them.

15 Their IQ needs to be above some minimal level
16 that indicates that with good instruction and the right
17 interventions they have the general cognitive capacity to
18 support the kinds of academic behaviors that we're looking
19 for: math, reading, speech and language.

20 I would argue that you don't need an IQ test in
21 a formal sense to make that kind of determination, because
22 students who are below that intellectual capacity qualify

1 for services that are different kinds of services.

2 So the test is not really buying you anything
3 in that process except that you're spending a lot of time
4 using it to try to determine who is eligible for services,
5 and that time would be better spent and the money would be
6 better spent providing those students with the services to
7 get them to where we want them to be.

8 So I'm just going to summarize. And I think
9 you have the slides so that if you need to refer to them.

10 Despite what some individuals would say, and we
11 can find references in the literature, that if we do away
12 with IQ-Achievement Discrepancy we're doing away with the
13 concept of learning disabilities, that so goes IQ-
14 Achievement Discrepancy, so goes learning disabilities.

15 And I would argue that these two things are
16 quite distinct. The concept of a specific learning
17 disability is not contingent on the validity of any
18 particular method of determining who has it.

19 IQ-Achievement Discrepancy is a means of
20 identification, nothing more. And if it doesn't work as a
21 means of identification, we should do away with it. It
22 doesn't mean we should do away with the concept that we're

1 trying to map to. We just haven't found a very good map.

2 So just to recap the four main points:

3 The validity of the concept does not hinge on
4 the validity of the means for identification.

5 IQ-Achievement Discrepancy as indexed by all
6 the different forms of validity evidence that we could
7 care to bring to this process, with the exception of face
8 validity, which, as I said, is the absolute weakest form
9 of validity evidence, the IQ-Achievement Discrepancy is
10 not a valid means for identification of individuals with
11 learning disabilities.

12 There is no compelling reason to continue to
13 use IQ tests in the identification of learning
14 disabilities.

15 And that if we eliminated IQ tests from the
16 identification of individuals with learning disabilities
17 we could shift our focus on to making sure that
18 individuals are getting the services that they need and
19 away from the energy that's going into eligibility
20 determination.

21 Thank you.

22 (Applause.)

1 DR. VAUGHN: Thanks, David, for making my job
2 easy for me.

3 You probably know that I am not Joe Torgesen.
4 Is everybody clear about that?

5 How many of you have heard Joe Torgesen speak
6 about this topic? Have you had that pleasure? Well,
7 you're very fortunate. I will do the best I can to
8 substitute for him.

9 Let me start by telling you where the
10 information I'm going to provide you today comes from.

11 Under the previous reauthorization of IDEA,
12 most of you are aware that the issues that this Commission
13 is undertaking were discussed, and one of the dominant
14 issues was how we identify learning disabilities, whether
15 we need IQ, and whether discrepancy should play a role.

16 I don't know how that was put aside. But under
17 the previous reauthorization, for reasons that are
18 probably very complex, they were not able to address that
19 head-on.

20 As a result of that, the Office of Special Ed
21 Programs realized that this would be an issue that would
22 dominate discussions under the new reauthorization of

1 IDEA.

2 For that reason Lou Danielson established a
3 committee of prominent researchers in the field of
4 learning disabilities to prepare a panel report on the
5 primary issues related to identification and treatment for
6 learning disabilities.

7 This committee issued a series of papers which
8 were very long papers and actually surprisingly very good
9 papers about the critical aspects of learning
10 disabilities.

11 In addition, probably three or four days after
12 Assistant Secretary Bob Pasternack was on the job -- am I
13 right on that, about -- wouldn't that be when that was
14 held? Hadn't you been on the job maybe three or four
15 days, two days, one day? What was your first day?

16 DR. PASTERNAK: Yes.

17 DR. VAUGHN: Okay. I knew I wasn't off by
18 much.

19 The LD Summit in Washington was held to provide
20 a forum to discuss these ideas. And in no small part the
21 discussions centered around the use of IQ tests and IQ-
22 Achievement Discrepancy as an appropriate model for

1 identification of learning disabilities.

2 Following that, subsequent to that -- so this
3 is now the third step in the process -- a committee was
4 called to Washington of approximately 16 people,
5 professionals, largely researchers in school psychology,
6 neuropsychology, special education, and psychology, to
7 address this issue again to determine whether or not there
8 could be some consensus from this committee about these
9 issues.

10 So this is a topic that has undergone great
11 scrutiny; in which the literature has been carefully and
12 thoroughly reviewed; it's been reported in terms of white
13 papers; there has been a summit in which these positions
14 could be aired; and then, now we have a committee that has
15 put together a consensus report.

16 And I tell you all of that background because,
17 having served every step of the way on that committee, I
18 can tell you it is no small thing, the findings I'm about
19 to report to you.

20 Because any of you who have served on
21 committees like this know what it takes to get 16 people,
22 not all of whom came together initially agreeing on these

1 issues, but who came very respectful of empirical ways of
2 coming to findings and who drew the conclusion that the
3 information I'm about to provide is something they agreed
4 with. Okay?

5 Again, I'm a stand-in, so I only have a
6 handout, not a presentation.

7 Much of what is summarized in this handout
8 David Francis has already convinced us of, or convinced
9 most of us of, and Dan Reschly further supported that in
10 his presentation. So you're going to see some convergence
11 of findings here.

12 This is the LD Summit follow-up meeting that I
13 was talking about and the findings from that meeting.

14 Reading to readers is not fun for either
15 person, the reader or the person being read to, so I'm
16 going to just give you the highlights.

17 In terms of the concept of LD, as David Francis
18 said, giving up discrepancy does not mean that we give up
19 the concept of IDEA -- excuse me -- of LD or the validity
20 of specific learning disabilities.

21 This committee very much endorsed the fact that
22 SLD exists, that these students are real, and that their

1 needs are real and that appropriate services for them are
2 warranted.

3 It also very clearly specified that specific
4 learning disabilities may and often does occur
5 concomitantly with other disabilities, including mental
6 retardation, behavior disorders, et cetera.

7 The second finding is that the responsibility
8 of special education to children with learning
9 disabilities, and that is that children with specific
10 learning disabilities require, deserve and need a special
11 education.

12 So I just wanted to get those things out of the
13 way, because for some reason, no matter when or how anyone
14 talks about discrepancy, very quickly people draw the
15 conclusion that the implication is that you are also
16 saying that learning disabilities does not exist and they
17 should not be served under special education.

18 So I just wanted to lay the groundwork for
19 that, that we do not view those things as incompatible.

20 The third issue is that it's a lifelong
21 condition for many individuals with learning disabilities.

22 Prevalence rates. Despite the fact that

1 everyone agrees, we don't know precisely what the
2 prevalence of learning disabilities is. There is very
3 good reason to believe that it does not exceed 6 percent.

4 Now, IQ-Achievement Discrepancy, the focus of
5 this presentation. This is the one area in which you will
6 see a majority and a minority report.

7 Jack, I think I'm right. The minority report
8 was one person. Am I right on that?

9 So we have the rest of the individuals all
10 agreed. The majority, all but one, agreed that -- and
11 Dan, you were at that meeting, too, weren't you?

12 DR. RESCHLY: Yes.

13 DR. VAUGHN: Yes. -- agreed that IQ-
14 Achievement Discrepancy is neither necessary nor
15 sufficient for identifying children with specific learning
16 disabilities, and IQ tests do not need to be given in most
17 evaluations of children with SLD.

18 David, you've never seen this report, have you?

19 DR. FRANCIS: No.

20 DR. VAUGHN: So again, these are independent
21 sources that support the same finding, which to me is
22 always very convincing. In fact, it's the groundwork of

1 scientific research, is convergence of findings across
2 studies and over time.

3 There should be some evidence that an
4 individual with specific learning disabilities is
5 performing outside the range associated with mental
6 retardation. And that could be done through achievement
7 and social measures. It doesn't have to be done through
8 IQ tests.

9 The minority report, which represented one
10 person, is also stated on the next page, and says that
11 aptitude-achievement discrepancy is an appropriate marker
12 for SLD but is not sufficient to document the presence or
13 absence of underachievement.

14 So basically this person supports the idea of
15 achievement being a very -- I think, speaking for someone
16 else is always dangerous -- but supports the concept of
17 achievement being a very important aspect of determining
18 learning disabilities, in determining early
19 identification, but they also support the necessity of
20 aptitude-achievement discrepancy.

21 Processing deficit, the other hallmark of
22 learning disabilities which has haunted the field for a

1 long time.

2 And since I have a little extra time because I
3 didn't have a formal presentation, I am a student of Sam
4 Kirk's, and, for some of you, what that means is that Sam
5 Kirk really is the individual who originated the term
6 learning disabilities and many of the aspects of the
7 definition.

8 However, I know -- he's not here, so I can say
9 this -- I know that Sam Kirk would be shocked to find out
10 that we held on to IQ discrepancy as a marker for learning
11 disabilities when he was very much a part of the U.S.
12 Department of Ed's committee that understood that that was
13 put in place merely as a means for assisting school
14 districts in establishing procedures, with absolutely no
15 empirical support for it whatsoever.

16 Processing deficit, which has also been around
17 for a long time, the committee agreed that the notion that
18 processes influence learning and therefore are likely
19 related to specific learning disabilities is an important
20 point to recognize.

21 However, we currently do not have available to
22 us sophisticated enough means for identifying processing

1 disorders. We have some Early Reading ones, like
2 phonological processing. But in general the
3 identification of process as a means for identifying
4 learning disabilities needs further work.

5 Therefore, systematically measuring process
6 difficulties and their link to treatment is not really a
7 feasible way to proceed at this time, but it may be in the
8 future.

9 Response to treatment. David mentioned it. I
10 spent about 20 minutes talking about it earlier and
11 answering a lot of questions about it.

12 So fundamentally what this argument is is that
13 individuals who are provided very solid primary
14 instruction, as we talked about earlier, and then are
15 provided very well recognized and effective supplemental
16 instruction and whose response to that supplemental
17 instruction is less than we would expect would be
18 individuals who could be considered learning disabled.

19 That's sort of the model we talked about
20 earlier.

21 And then, lastly, effective interventions for
22 students with specific learning disabilities. The

1 committee wanted to go on record recognizing that we know
2 a great deal about how to treat specific learning
3 disabilities, particularly reading disabilities, and that
4 a lot of what we know is not in place in practice.

5 And the last sentence I think kind of says it
6 all, which is that, despite this knowledge, there are
7 interventions for individuals with specific learning
8 disabilities that are demonstrably ineffective but still
9 in use.

10 In fact, much of the folklore and fantasy about
11 what's governed specific learning disabilities for 30
12 years continues to weave itself into practice in ways that
13 are most unfortunate in terms of outcomes for children.

14 So that's the sum of my report on behalf of
15 Joe.

16 MR BRANSTAD: Okay. Adela I think has the
17 first question. Adela?

18 MS. ACOSTA: This is to David.

19 MR BRANSTAD: We'll go to Adela first, and then
20 you'll be second. Adela first, and then you are second.

21 MS. ACOSTA: This question is for David. I
22 just want to make clear -- and I think I'm hearing this

1 from both you and Sharon -- that in order to yield
2 appropriate groupings, either in math or in reading, then,
3 we have to depend on a skills assessment model rather than
4 on the IQ tests or other discrepancies that a child may
5 bring to the classroom. Am I hearing you correctly?

6 DR. FRANCIS: Well, I think that's one
7 alternative. Also, providing interventions immediately
8 and then looking at response to interventions.

9 MS. ACOSTA: Right. And that supports Sharon's
10 skills identification period with continuous monitoring of
11 a child's progress --

12 DR. FRANCIS: Right.

13 MS. ACOSTA: -- in tandem. Then they bring us
14 to what you would recommend to us in this Commission.

15 DR. FRANCIS: Correct.

16 MS. ACOSTA: I guess my only other thing I
17 wanted to say earlier -- I'll say it now, I'll cheat and
18 say it now -- that one of the questions about higher
19 education that continues to worry me, and it's just an
20 idea, of crossover training.

21 And this question is for you, Sharon. Would
22 you think that would be a feasible alternative or is that

1 a feasible or appropriate way to go in terms of suggesting
2 to higher education trainers or teachers that crossover
3 training would be appropriate?

4 It might, with the national shortage of
5 teachers and the teachers who lack the skills that are in
6 system at present, it would seem to me that perhaps
7 crossover training so that we're really looking at having
8 excellence in education, and as part of that our special
9 ed students are put in the mix.

10 But teachers are not in that mix. They get one
11 course required in special ed, and the rest is general
12 education.

13 DR. VAUGHN: I'm really glad you asked that
14 question, because you've given me the opportunity to get
15 out of the doghouse with the Director of Special Ed in
16 Texas, who nabbed me at the break and said, We've been
17 funding you to work in higher ed for the past year-and-a-
18 half, you know. Don't you think maybe that model would be
19 appropriate to discuss? And actually, he's absolutely
20 right.

21 So I'll pretend I'm answering Adela's question,
22 but I'll really address the other issue, as well, at the

1 same time.

2 Which is -- and Reid Lyon also, you know, got
3 me at the break about higher education and how we can do
4 something about that.

5 So I'm going to say two things. One is, an
6 unpopular idea, but I believe necessary idea, is that we
7 have to be very specific about what courses and
8 instruction take place in teacher education programs.

9 We have to make sure that we identify as a
10 profession the corpus of knowledge and skills and practice
11 that teachers need to have. We need to identify it. And
12 by the way, the NCAPE standards are not it. Okay?

13 And we need to start new. We need to take
14 everything that exists, and we need to put it aside, and
15 we need to say, In the last 20 years we have converging
16 knowledge, we have some very serious information that
17 everyone in higher ed needs to be sure they're
18 disseminating, and if they're not, we need to have serious
19 change.

20 And this corpus of knowledge needs to be agreed
21 upon, and it needs to be validated, and then it needs to
22 be distributed in the form of very specific courses that

1 have very specific knowledge, skills, and practices
2 associated with them.

3 And so it's not a question of, I teach
4 Education 101, and I teach my version of it, whatever that
5 might be, and someone in Oclare has their version of
6 Education 101, and God forbid we ever agree on what the
7 knowledge, skills, and practices are that teachers need.

8 Now, those of you that are working in schools
9 know very well what they are, because you know very well
10 what needs to be brought into those classrooms so that
11 effective instruction, assessment, and progress monitoring
12 go on.

13 I think we can come to that agreement. I think
14 we have to stop saying, Well, you know, we can't decide,
15 everybody has the right to decide for themselves, whatever
16 people think. We've got to do the hard, nasty, ugly work
17 of putting this together, and it won't happen overnight.
18 And this Commission has the power to influence that.

19 Secondly, does it need to be cross-training
20 between general ed and special ed? I don't know how it
21 cannot be given the progressive way in which we're looking
22 at this.

1 And then, thirdly, acknowledging the support
2 from the Texas Education Agency in already being very
3 progressive in this matter right now in which we are
4 working with higher ed doing very much this same activity.

5 MS. ACOSTA: And Sharon, just one last thing.
6 Who should be held accountable? Because I think
7 accountability is one of the things that this Commission
8 has to grapple with. And so are we looking to hold the
9 higher ed institutions accountable? Are you recommending
10 a national certification for accountability?

11 I'm just trying to be a Devil's advocate here
12 and get an answer.

13 DR. VAUGHN: Well, you know, I'll be honest
14 with you. I really think people who know a great deal
15 about this need to be brought together to think it through
16 and think through all the potential problems along the
17 way.

18 But the one thing I am sure of is that we know
19 a lot that isn't part of our teacher ed programs and that
20 we can agree on these things. And that doesn't mean that
21 it has to be, you know, top-down from the Federal
22 Government. I mean, this can be done by a committee that

1 looks very carefully at the knowledge base we have in
2 teacher education.

3 So I don't want to be that committee right now
4 and provide that answer. But I think that it can be done,
5 and we have the responsibility to do it.

6 And every day that goes by -- I mean, if the
7 only price was for higher ed, most of us wouldn't care.
8 But every day that goes by, you know, there's truly
9 thousands of kids who are not getting the instruction they
10 deserve.

11 And so there's just too much at stake for us to
12 sort of shrug our shoulders and say it's out of our hands.
13 It's in your hands. You have a lot of power.

14 MS. ACOSTA: Thank you.

15 MR BRANSTAD: Katie Wright.

16 DR. WRIGHT: Can you hear me?

17 MR BRANSTAD: Uh-huh.

18 DR. WRIGHT: I can't hear some of the other
19 questions, and I don't want to ask the same question that
20 other Commissioners are asking.

21 A comment: I just think that I would have paid
22 to be on this and to hear you, I really do. Because there

1 are people out there who are still using what we, quote,
2 learned at St. Louis University in 1970s on our doctoral
3 program, strictly discrepancy model.

4 And even then some of us knew that you use
5 other means of evaluating kids, too, like you're saying
6 here, that there's the social work and all of that.

7 So I just think your presentation has been
8 wonderful.

9 I wanted to ask, though, we are not just
10 throwing completely out the use of the IQ or the use of IQ
11 testing? Because I sort of agree with this minority
12 report. I think that you need some testing to go along
13 with evaluation, along with the other ways of evaluating
14 and placing LD children.

15 LD is the most controversial field in special
16 education. Back in 1963 it was a big fuss and a big
17 controversy, and in 2001 there is still controversy.

18 But I am so glad to hear you and to know that
19 we ought to continue research. This just shows the need
20 for continued work and continued research in this. We
21 can't continue to do now what we were doing in the 1970s
22 and 1980s. And that's the comment that I wanted to make.

1 DR. FRANCIS: Well, I heard a question in
2 there, as well, which was, are we advocating, you know,
3 not using IQ testing? Yes, we are.

4 The value added of the IQ assessment to how we
5 handle an individual with a specific learning disability
6 is frankly zero. It does not provide any additional
7 information beyond telling us whether or not the child is
8 educable. And we don't need the IQ test to tell us that.

9 I'm not saying no assessment, but what I'm
10 saying is that the IQ assessment is superfluous to the
11 process of what we really need to do with respect to
12 education of children with specific learning problems.

13 DR. WRIGHT: What about achievement tests?

14 DR. FRANCIS: Achievement tests have a role to
15 play, as do measures of individual skills that are
16 important to the skills that we're interested in trying to
17 affect the outcomes of, as well as monitoring progress.

18 In terms of, if we're providing an intervention
19 for a student and we know that that intervention targets a
20 specific area to make sure that in fact the student is
21 making progress on that skill.

22 Assessment is a very important part of the

1 process. But IQ assessment, frankly it's not worth the
2 money that it's costing us. We're not getting enough for
3 what we're paying for.

4 MR BRANSTAD: Doug Hunt.

5 DR. HUNTT: Thank you, Mr. Chairman.

6 Dr. Francis has done a great job in beating up
7 IQ tests. In fact, we can't even accommodate face
8 validity with it.

9 But I do take issue with your assertion that
10 there's no compelling reason to keep it. And this goes
11 along with what Dr. Wright was just asking about.

12 Number one is, right or wrong, at least parents
13 of kids with disabilities understand what IQ tests are and
14 whether or not they're going to qualify for services or
15 not.

16 My concern is that we don't have an
17 alternative -- and this is the second reason that I think
18 it's compelling -- we don't have an alternative in place
19 yet, at least that hasn't been presented today.

20 My concern is if we throw in qualitative
21 standards that there's going to be too much variance out
22 in the states, and parents aren't going to understand

1 whether their kids qualify or not.

2 So how do you deal with that and coming up with
3 something relatively quantitative rather than throwing the
4 whole thing out?

5 DR. FRANCIS: My expectation is that parents
6 are less concerned about eligibility and qualification
7 than they are about making sure their students are getting
8 the services that they need to become successful learners.
9 And that --

10 DR. HUNTT: But if you throw that away, then
11 there's just one more variance that parents are going to
12 have to understand.

13 DR. FRANCIS: Well, I'm not denying that we
14 have to educate parents in terms of how we're going to go
15 about trying to provide services to their student, how
16 we're going to determine that we're providing them with
17 the right services, and how we're going to monitor
18 progress to make sure that in fact the services we're
19 providing are having the impact that we want them to have.

20 But I don't believe that continuing to use
21 something that's not working simply because we understand
22 it is going to get us where we need to get.

1 It's a little like the story of the individual
2 who looks for his keys on the corner because the light is
3 better there even though he lost them in the alley.

4 If it's not where the problem is, then we
5 really need to focus our energy on where the problem is,
6 and we will get there. And we can teach parents as well
7 as school administrators and teachers alternate models as
8 we make progress in this area.

9 But I don't believe we should cling to the IQ-
10 Achievement Discrepancy simply because we know it so well
11 and we're comfortable with it.

12 DR. HUNTT: I hear we're getting to it, you
13 know, there are alternatives on the table. What's the
14 specific recommendation? How do you practically take your
15 issue and put it into something in IDEA so that everyone
16 understands and it's across the board?

17 DR. FRANCIS: What I would like to see is that
18 we are assessing the component skills that we know to be
19 important where we know those important skills are. And I
20 believe in reading we have acceptable measures for those
21 component skills.

22 We also have interventions that we know are

1 effective for many children. And that the goal should be
2 to make sure that those students are receiving those
3 interventions and that we're monitoring the effectiveness
4 of the intervention for each individual child.

5 And that's what the IEP should look like, is,
6 what is the specific intervention that this student needs
7 now, and how frequently are we going to monitor progress
8 and make sure that we're making progress with that
9 intervention?

10 MR BRANSTAD: Bryan Hassel is next. Do you
11 have anything more to add?

12 DR. VAUGHN: I said all that earlier.

13 MR BRANSTAD: Okay.

14 DR. HASSEL: My question is, are there learning
15 disabilities that can be validly identified by some
16 assessment other than IQ discrepancy, such as genetic
17 markers, such as monitoring brain functioning as other
18 sorts of direct tests?

19 And if so, is there any evidence about
20 different kinds of interventions that would be effective
21 with students that have those disabilities that would be
22 different from just garden variety reading problems?

1 DR. FRANCIS: I am not aware of any single test
2 or marker that is available for any specific form of
3 learning problem that we could say, This is the gold
4 standard assessment that you use for this particular
5 problem or this particular learning difference, in the way
6 that we use a blood pressure assessment to determine those
7 individuals with hypertension. I'm not aware of any.

8 DR. VAUGHN: I think the agreement among
9 researchers in the field would be that achievement is our
10 best marker, that if the student is having trouble in
11 math, then what you need is the best measurement you can
12 bring to bear on math, and then the best intervention you
13 can bring to bear, and then monitoring that progress.
14 Same thing for reading or in any other area.

15 I think where we need some serious work is as
16 students get older, adolescents whose reading is very low
17 either because they were not provided with appropriate
18 treatments early or because the treatments were no
19 effective.

20 I mean, I think issues related to how we
21 address the most effective interventions for adolescents
22 is still some work that we need to do.

1 MR BRANSTAD: Doug Gill.

2 DR. GILL: Part of what I think I'm hearing us
3 say is, Okay, maybe IQ-Achievement Discrepancy is not
4 good.

5 It seems to me that part of the issue in
6 special education in terms of our past has been the
7 development of alternatives to general education.

8 Perhaps our future is the development of
9 alternatives to special education, which seems kind of the
10 direction we seem to be heading here.

11 And I guess I'm still not sure about, so what
12 kind of cut scores do you use, what kind of discrepant
13 measures do you use, and what specific recommendations do
14 you have to separate those classes of kids who are low
15 achievers from those who are in fact kids with
16 disabilities who require adverse educational impact and
17 specially designed instruction?

18 DR. FRANCIS: Well, I'll talk specifically
19 about the area of reading, because that's where I do my
20 research.

21 And in the area of reading, we know that those
22 students who are low achieving in reading generally start

1 out with very poor phonemic awareness skills. And we have
2 very good assessments of phonemic and phonological
3 awareness, where students scoring below certain levels on
4 those tests, we can predict they're going to have problems
5 with acquisition of decoding.

6 We can also look at oral language proficiency
7 and make pretty good estimates about whether or not
8 students are going to have problems with comprehension on
9 the basis of their oral language proficiency.

10 We know about fluency, and we have assessments
11 of fluency in terms of the automaticity of the decoding
12 process and whether or not students have achieved a level
13 of automaticity that is sufficient to support independent
14 reading.

15 And I would argue that those skills, we have
16 the benchmarks for reading. Now, whether or not we have
17 the same in math and the same in language disorders, I
18 can't say.

19 DR. GILL: So would you say that reading
20 disability is synonymous with learning disability?

21 DR. FRANCIS: I would say reading disability is
22 a form of learning disability. Yes. But I believe --

1 DR. GILL: But there are multiple measures.
2 Right? Isn't that kind of what the OCEP guidelines and
3 Federal Regulations say, multiple measures and
4 assessments?

5 DR. FRANCIS: Correct.

6 DR. GILL: So it's a process basically of
7 elimination of factors as opposed to inclusion of factors.
8 Is that right?

9 DR. FRANCIS: I'm not sure I understand what
10 you're asking me.

11 DR. GILL: Well, if you exclude socioeconomic,
12 if you exclude some of the other achievement issues. In
13 other words, a learning disability is kind of a process of
14 eliminating a series of factors that might impact
15 achievement as opposed to including all those factors in
16 the assessment.

17 DR. FRANCIS: I would argue that it's a process
18 of also including the key skills that are determinants of
19 those achievement outcomes that we are interested in.

20 DR. GILL: So how would you, then, develop some
21 sort of cut score, if you go back to the graph that you
22 put up, to differentiate those kids below the discrepancy

1 line versus above?

2 DR. FRANCIS: Well, I believe that one way to
3 do this would be with good prognostic models; that is,
4 students who score below this level are at risk of poor
5 outcomes on the basis of what we know from longitudinal
6 research. And I would argue that prognostic indicators
7 are a good way to go.

8 DR. VAUGHN: The other response to that
9 question that would be an interesting one to put into
10 place is that, if we consider identifying students very
11 early, screening students and identifying them early, and
12 providing support, supplemental instruction for students
13 who need it, we could also identify special education for
14 those students who we predict will need supplemental
15 instruction for extended periods of time and students who
16 need extensive supplemental instruction, meaning for
17 longer periods of time.

18 So you might call that a response to a
19 treatment model. But the other way to think about is that
20 special education then becomes defined by the
21 instructional needs of the student rather than the
22 assessment that's delivered.

1 MR BRANSTAD: Floyd Flake.

2 REV. FLAKE: Thank you. Sharon, you talk about
3 continuation of using something that does not work and the
4 reality of what happened at the last legislative session
5 in terms of getting change. Given that, my experience
6 suggests that many things follow the direction of the
7 money.

8 The question I have is -- and Steve Bartlett
9 knows something about that.

10 My question is, would I be correct in assuming
11 that several industries have much to say about why we
12 continue with a model that does not work, i.e., the
13 industry that is responsible for the production of tests?
14 And Alan just told me that that test also requires a
15 professional that gets 1-1/2 to two hours of pay for
16 actually monitoring it.

17 Does that influence in many ways mitigate
18 against the possibility of being able to have some
19 effective reform?

20 DR. VAUGHN: My guess is that the most
21 influencing factor is the difficulty of moving the
22 direction of the boat that's been flowing in a particular

1 direction for so long. What I mean by that is change,
2 that it's not a direct result of the testing industry per
3 se, but a direct result of the fact that the field has
4 been operating this way for so long.

5 And it's very hard sort of conceptually to get
6 your hands around the fact that, if learning disabilities
7 is unexpected underachievement, how do you determine
8 unexpected underachievement without traditional tests,
9 which we for a long time have been using IQ?

10 Now, to me unexpected underachievement could
11 mean unexpected underachievement in response to treatment.
12 And to me that's much more proactive, much more child
13 oriented, much more progressive.

14 What we have failed to say here and is a fact
15 is the potential destructive quality that IQ tests have
16 served in many communities.

17 And while we are unable to build a very
18 compelling argument for how productive IQ tests are, in
19 addition to that we have some evidence that they are
20 unproductive in many communities.

21 So I think it's just, in my judgement it's just
22 a question that this is something that has been going on

1 for a very, very long time, and it involves a cognitive
2 shift about how we think about special education and
3 serving students, and not an easy one.

4 REV. FLAKE: So it's not just the industry.
5 It's higher ed and everybody else who is involved in the
6 process, I would take it.

7 DR. FRANCIS: I agree with Sharon. I don't
8 think it's strictly an industry issue or that -- I mean,
9 assessment is going to play a large in the future of
10 education, and test developers will identify those other
11 assessments that get needed if in fact IQ assessments are
12 not going to be needed for this purpose. I don't think
13 that's so much the concern.

14 I do believe that getting an entire country to
15 change the way it approaches a specific issue is always a
16 challenge, and I think that's the real challenge that we
17 face.

18 MR BRANSTAD: Alan Coulter.

19 DR. COULTER: I want to take Commissioner
20 Huntt's traditional role in which he always thanks the
21 witnesses for their, you know, testimony.

22 You know, this is one of the few places where

1 we can ask a yes or no question and get a clear, straight
2 answer, you know.

3 I think, Dr. Francis, your presentation was
4 really a yes or no answer, and the answer is no. And you
5 know, I think it's somewhat difficult for us to, knowing
6 that always these questions are complex, it's difficult
7 for us to accept, My God, we finally got a straight answer
8 to a question.

9 So I just want to make certain I understood it,
10 first of all, very clearly.

11 Number one, I think on page 4 and 5 of your
12 handout you pointed something out to us which is extremely
13 important for us to remember, and that is the definition
14 in the law is not a problem.

15 It is the way in which the regulations were
16 structured in 1977 and through all the other revisions all
17 the way up through 1997 we have failed to address the
18 evidence and to really once again listen to the answer to
19 the question.

20 IQ tests have no value in the identification of
21 LD. I think that's what you've said. And I appreciate
22 you being honest and forthright about it.

1 In the regulations it stated in '77 and '97
2 basically it constructed a fantasy of this ability
3 achievement discrepancy. It's a fantasy. It does not
4 exist. And it certainly wasn't the intent, as I
5 appreciate it, in the definition that was in the law in
6 1997 -- or actually in 1975.

7 So we created something that didn't exist. And
8 guess what? Now 20-some-odd years later we have defined
9 on the basis of lots of science, et cetera that, sure
10 enough, it doesn't exist. So if I hear that correctly,
11 that's what's happening.

12 I also heard that 16 experts came together and
13 15 of them said it doesn't exist. One person didn't, so
14 we have a minority report of one person.

15 Now, I have to tell you, you know, none of us
16 are always going to agree on anything, you know. So if I
17 understand, we're even better than the -- I'm going to
18 defer to my lawyer colleague, Mr. Jones. You know, we're
19 not at the preponderance here. We're way over the edge of
20 saying, Gee whiz, the answer really here is no.

21 So let me just -- I just want to clarify one
22 other thing. And this goes to you, Sharon.

1 In the handout that you gave us it says, under
2 prevalence rates, in the second paragraph, Even with the
3 above interventions -- and that does, I think, impinge on
4 what the definition of what learning disability, how we
5 might change that.

6 I think and on page 4 of Dr. Francis's handout
7 it might say an imperfect ability sort of in the face of
8 effective interventions.

9 But it says here, Even with the above
10 interventions, approximately 6 percent of students may
11 exhibit --

12 Isn't the evidence really somewhere between 2
13 and 6 percent? I mean, isn't that a range? It's not
14 really 6 percent?

15 DR. VAUGHN: The reason I'm going to say we're
16 not certain, and that's why the language is worded as,
17 approximately, is because in studies in which the
18 prevalence is closer to 2 to 3 percent, those students who
19 participated in those studies were very carefully
20 screened, and there were students who were not included
21 who would be included in a broader screening for risk.

22 For example, IQ may have been used to eliminate

1 students, or second language may have been used to
2 eliminate students, et cetera, et cetera.

3 So I think the most confidence we can have is
4 that it is unlikely to be above 6 percent, it may be
5 somewhat below 6 percent, and that we should expect
6 variation by district.

7 And I say that because what children bring to
8 school in terms of vocabulary and language is no small
9 factor in influencing how many students will need
10 supplemental instruction or special education.

11 DR. COULTER: I'm just troubled by, whenever we
12 say approximately 6 percent, we're setting sort of an
13 artificial line where everybody should like want to
14 approach 6 percent. That's not really what you just said.

15 DR. VAUGHN: No.

16 DR. COULTER: That there are factors that might
17 in fact mitigate against having that high an incidence
18 rate, and in fact the incidence rate would be much lower,
19 especially in the face of effective teaching in general
20 classrooms.

21 DR. VAUGHN: Well, this is based on work in
22 which effective supplemental instruction was involved.

1 And it is difficult to know the true prevalence rate of
2 SLD. I mean, that's really an important statement.

3 And it's unlikely to exceed 6 percent. It's
4 very unlikely to be less than 2 to 3 percent. Whether
5 it's 3 to 4 percent, you know, we'll learn as we put these
6 models into place.

7 DR. COULTER: So somewhere between 2 and 6 is
8 really what we're talking about?

9 DR. VAUGHN: That's what I would say. Yes. I
10 feel comfortable with that.

11 DR. COULTER: Thank you.

12 MR BRANSTAD: We're going to break at about
13 12:40. We have several people on the list, and we'll go
14 as far as we can to get to 12:40.

15 Steve Bartlett is next.

16 MR. BARTLETT: So on a scale of 1 to 10, with
17 10 being 1 million cards and letters to Congress objecting
18 to our report and 1 being a unanimous endorsement by all
19 the advocacy groups, how disruptive, if we were to adopt
20 your recommendation to eliminate IQ tests in LD
21 identification, how disruptive would that be?

22 DR. FRANCIS: I would argue it will be

1 disruptive directly in proportion to the degree to which
2 you continue to provide services for those children who
3 are currently getting it and find a way to provide
4 services to the children who need it.

5 And what is going to cause a disruption is if
6 people who are currently being served are no longer being
7 served because of a change in the rules.

8 And to the extent that people continue to get
9 the services that they need, I don't think you'll have
10 that kind of outcry. That would be my opinion.

11 MR. BARTLETT: And the second half to that is,
12 how would you describe or develop a transition from what's
13 been in effect since 1977 to, I think people generally
14 understand, to a new system that seems to be -- your
15 replacement model seems to be less well developed. The
16 replacement model seemed to be less well developed as an
17 identification model.

18 DR. FRANCIS: Well, I think just like we bring
19 people together to form the consensus reports to
20 determine, is what we're doing working, we would want to
21 bring people together to derive the alternatives and
22 develop those alternatives and determine, you know, where

1 are the flies in the ointment, what do we have to do to
2 make sure that this will work, and put it in place.

3 I don't think one person --

4 MR. BARTLETT: The alternative in Federal law
5 would be, on a certain date the new model goes into effect
6 or a transition over three years or an alternative system
7 or --

8 DR. FRANCIS: I would expect a transition
9 model. That would be what I would expect would be the
10 most effective.

11 MR. BARTLETT: Thank you.

12 MR BRANSTAD: Reid Lyon.

13 DR. LYON: I have two questions. I'll leave
14 the second one off and will defer to Dr. Fletcher.

15 Since language may drive how we think about
16 things, and since we've been operating on the principle of
17 unexpected underachievement and using IQ measures and
18 achievement measures as proxies for that piece of
19 language, what you've taught us this morning is that
20 indeed LD, particularly in reading as we know it, is
21 expected underachievement, expected on the basis of a set
22 of predictors of critical skills involved in reading.

1 So when we're talking about replacing or
2 finding metrics to let us know who may or may not be, one
3 possible metric or solution could be that which best
4 predicts failure, and in this case, phonological
5 processing, possibly.

6 But aren't we going to have to also use
7 response to intervention in combination with that?

8 I mean, I don't think we're ever going to get
9 to a psychometric predictor of specific learning
10 disabilities. We can certainly identify those kids who
11 are most at risk. But I don't see how we're going to do
12 it without response to intervention.

13 And I just want to make sure we're clear that
14 that in fact is an essential component in the
15 identification of LD kids.

16 DR. FRANCIS: Well, yes. I guess I would say
17 at this time that I would agree with that.

18 But I'm not ruling out the possibility that in
19 the future we might, with more years and with this model
20 in place where we're looking at responsiveness to
21 intervention, that we might not be able to identify, who
22 are those kids, and are there characteristics of those

1 children who do not respond to interventions, and are
2 there markers that we could develop for what identifies
3 those children early?

4 But I would say at this point in time you're
5 right.

6 DR. LYON: Now, we've also found that the idea
7 that children who are socially disadvantaged or
8 economically disadvantaged or who have lacked appropriate
9 instruction cannot be LD. But that doesn't make any
10 sense, either.

11 That is, why should we have these exclusions
12 continuing in the definition when in fact some of those
13 exclusions could produce the expected learning difference?

14 DR. FRANCIS: There is no evidence that
15 children whose underachievement is due to those factors,
16 that they respond differently to intervention or that they
17 need different kinds of intervention. So, yes. I agree
18 completely.

19 DR. LYON: And I had a third question, but I'm
20 going to defer to Fletcher, because I don't know if he's
21 on the list.

22 MR BRANSTAD: Yes. Tom Fleming is next.

1 DR. FLEMING: Well, if he needs to finish --

2 DR. LYON: I had three questions. I'm just
3 giving --

4 MR BRANSTAD: Okay, if that's okay with Tom,
5 though.

6 DR. FLETCHER: David, just to follow up what
7 Reid was asking, and also to try and get you to answer
8 Commissioner Gill's question, at this point in time is it
9 possible to take a psychometric test and define a cut
10 score that will reliably discriminate children with LD
11 from children who don't have LD, taking into account
12 things like measurement error and things of that sort?

13 DR. FRANCIS: No.

14 DR. FLETCHER: In fact --

15 DR. FRANCIS: You wanted a yes/no answer?

16 (General laughter.)

17 DR. FRANCIS: In fact, a single assessment that
18 relies solely on test scores is never adequate, because it
19 does not reliably identify children who are above or
20 beyond the cut point. There is no gold standard test that
21 we can apply with a particular cut score that sorts into
22 two bins those with LD and those without. There is no

1 such test.

2 MR BRANSTAD: Tom, it's your turn.

3 DR. FLEMING: I just wanted to take us back to
4 a little bit of history here, because when I first started
5 teaching and we were diagnosing students at that time as
6 emotionally disturbed, and then the title became
7 emotionally impaired. This is in Michigan.

8 And at that time I was at a training school in
9 which testing was not the reality, but much more we were
10 dealing with occupational skills. I remember specifically
11 it was a training school where we taught farming skills,
12 and the kids went out and actually grew the vegetables,
13 and then they were trained to cook the food on base there.

14 Many students that were involved with
15 automobiles were trained to repair automobiles. And I
16 still have in my own possession pottery that many of these
17 kids went into.

18 I left from that area to deal with a more urban
19 school. And at that point we were dealing with young
20 students that -- the transition also out of what you could
21 do with some kind of a life skill.

22 But we had wood shop there in which again

1 children -- we saw how they made different objects for
2 their family. And my wood shop teacher thought of an
3 idea, could we get them to produce this in larger
4 quantities and sell to the other court staff?

5 And it just went over like just a great amount
6 of success, where we even paid the kids for their work.
7 The kids that were unskilled, we paid them differently
8 than the kids that brought some kind of skill to it. So
9 again we were dealing with occupational.

10 That transition took away from them the titles
11 of emotional -- and they were delinquent. There was
12 nothing about -- but still we were special ed teachers.

13 Then in comes the computer industry. Wood shop
14 closes out because now kids are into computers and
15 learning how to use them better than myself.

16 We had kids that were so skilled in, not being
17 able to read from the book, but we would come in on a
18 morning, and someone had sabotaged the computers and all
19 English was now French.

20 And so again, what I'm actually saying here is,
21 we've seen that. And I don't think Michigan is unique. I
22 think probably teachers around the United States have

1 found ways to help kids to be successful in whatever they
2 could do.

3 Why isn't some of that kind of data being now
4 at least used to say, if we're really talking about being
5 honest, that some kids will never do well if you evaluate
6 them diagnostically, but there are other ways that they
7 bring to the table skills, and there are other ways that
8 they really want to be part of the society? They don't
9 want to be that negative out there.

10 DR. FRANCIS: What I take from your question, I
11 think it's important that, while there are many things
12 that each of us may be able to do or may choose to do and
13 find a way to contribute that we find fulfilling, it's
14 important that all students get the right kind of
15 instruction that will help them to be as successful with
16 academic areas as they are capable of being.

17 And so we want to make sure that kids are
18 getting the kinds of services that they need and the kind
19 of instruction that they need to be as successful as they
20 possibly can. And then, I think that that's consistent
21 with what you're saying.

22 MR BRANSTAD: Katie Wright.

1 DR. WRIGHT: I have a question. And the
2 question is this -- and I don't want to put you on the
3 spot.

4 But one of the major issues in IQ testing of
5 course is that it penalizes minority students. Can you
6 tie this to the negation of using the IQ test solely for
7 determining whether or not a kid is LD?

8 DR. FRANCIS: Well, we do believe that, and the
9 evidence supports, that the use of IQ tests, and
10 especially the discrepancy model, leads to
11 overrepresentation of minorities in special education.

12 DR. HUNTT: I wanted to follow up on Alan's
13 comments.

14 I'm okay with hearing the word, no. I grew up
15 in adolescence and young adulthood hearing it all the
16 time. But my concern is -- actually, I'm still hearing no
17 most of the time, that's another story.

18 My concern is that, in the absence of a viable
19 alternative, what should the recommendation of the panel
20 be with regards to IDEA in this reauthorization? We don't
21 have a viable gold standard, as you've already indicated.
22 What should our recommendation be, then?

1 DR. FRANCIS: Well, I mean, I like the approach
2 that Sharon has advocated, which is, when students'
3 achievement indicates that they need assistance, we
4 provide them with interventions that we know are effective
5 for elevating achievement outcomes, and we monitor their
6 progress in those interventions, and that consistent --

7 When interventions are applied and students
8 consistently do not achieve in the presence of those
9 interventions, that that's the basis for the
10 identification, that it takes time to make that
11 identification.

12 The goal should not be determining eligibility
13 in order to provide the services. Provide services, and
14 then, as a consequence of in the presence of services
15 students don't achieve, that's when we make the
16 identification.

17 MR BRANSTAD: Beth Ann is next.

18 MS. BRYAN: I want you to clarify something
19 that you didn't say, but I think you probably meant it.

20 When you said not using IQ tests, are there
21 certain circumstances, not necessarily for qualifying, or
22 maybe for qualifying, if you had a child that you looked

1 at and thought, Gee, there's some serious cognitive
2 impairment here, we're not sure, maybe there's some
3 developmental disorder going on, you don't know what it
4 is, there are some circumstances where you might use that
5 test as part of a protocol, or not?

6 DR. FRANCIS: I don't -- I'm not so averse to
7 the use of IQ tests in schools. The issue is, does it
8 help us in the identification of learning disabilities?
9 And I think the answer is, there it is not essential. But
10 you can get useful information from an IQ assessment.

11 MS. BRYAN: I just wanted to clarify that you
12 weren't saying, Don't ever give an IQ test.

13 DR. FRANCIS: No. That's not what I'm saying.
14 That's correct.

15 MS. BRYAN: You're saying, in order to qualify
16 for LD, don't give it.

17 DR. FRANCIS: They don't have a role to play in
18 that process.

19 MR BRANSTAD: Bryan Hassel.

20 DR. HASSEL: Is there any research about what
21 kinds of interventions are successful with the students
22 that don't respond well to the first kinds of

1 interventions that there is good research about?

2 DR. VAUGHN: If you go back to the model that I
3 put up earlier this morning with primary, secondary, and
4 tertiary, I think you're probably talking about the
5 tertiary instruction.

6 And in fact there's a group of colleagues and
7 myself who are really exploring that question right now.
8 What do we know about what interventions are most
9 effective for students whose response to the supplemental
10 instructional methods has been less than we would expect?
11 And less than, you know, 75 to 80 percent of the kids
12 respond.

13 And we don't know as much about that, frankly.
14 In fact, a legitimate question is, do we give more -- in
15 fact, I believe it was Professor Berdine who was asking me
16 this, the evidence for double dosing.

17 Do we give more of the same and monitor their
18 progress to determine whether or not they just need more
19 intensive, more explicit, or do we do something different?

20 The issue right now is, I believe, there is
21 more compelling evidence for more explicit and more of it,
22 of course situated to the student's specific needs, than

1 different. I think there's more support for that. So
2 that would be the line of reasoning I would take at this
3 point.

4 So they need more explicit instruction, longer
5 periods of time, better situated to their specific
6 learning needs.

7 There's very little evidence that the group
8 size needs to get much smaller than four. But that would
9 be an empirical question: What happens if you reduce the
10 group size to one-on-one or one-on-two along with that?

11 So there are some ways to manipulate variables
12 to further refine the knowledge we have about tertiary
13 instruction.

14 But that is the level of instruction at this
15 point in time we have the least information about.

16 MR BRANSTAD: Cherie Takemoto.

17 MS. TAKEMOTO: Some people have accused parents
18 and others of getting that LD label for their children so
19 that they can get accommodations. So untimed tests,
20 alternative methods of response are ways of showing
21 knowledge and things like that.

22 How would what you're recommending affect

1 children's ability to get those accommodations which at
2 least some people are trying, whether it's based on
3 evidence or not, to success?

4 DR. FRANCIS: I actually think that you would
5 see a decrease in that, because the identification now is
6 going to be tied to responsiveness to intervention. That
7 means students are going to be spending time in
8 intervention.

9 And it's not just a matter of giving an IQ and
10 an achievement assessment and having the student do poorly
11 on the achievement assessment and, all of a sudden,
12 they're qualified for services.

13 So I think that in fact if in fact parents are
14 using that in that way and the identifications are, what I
15 would take from what you're saying is that they're not
16 legitimate identifications, that's going to be a more
17 difficult thing to do if we're talking about
18 responsiveness to intervention as a basis for the
19 identification.

20 MS. TAKEMOTO: But there will be students who
21 do not respond, and there are students who respond to
22 untimed tests or note-taking. Those supports are helping

1 them be successful. So if you take those supports away
2 because they don't really have --

3 You know, I'm concerned about what happens to
4 the accommodations that are helping students demonstrate
5 success, not only in school, but in college, when they're
6 asking for those accommodations.

7 DR. VAUGHN: Well, my answer to that question
8 is that we don't have to be stingy with accommodations,
9 that accommodations and adaptations are appropriate ways
10 to help individuals who need them. And the research
11 available, which is not extensive, does not suggest that
12 it helps very much kids who don't need them.

13 So my response to the answer is, be generous.
14 And if students can demonstrate or parents or appropriate
15 others can demonstrate a need for accommodations and
16 adaptations, give them.

17 MR BRANSTAD: Okay. We're going to recognize
18 Paula for the final question.

19 DR. BUTTERFIELD: Actually, I'll make it easy.
20 It's not even really a question, but an encouragement.

21 I appreciate as well as what Commissioner
22 Coulter said about your ability to succinctly answer

1 questions.

2 I would just like to encourage more research in
3 the area of adolescents. As a practitioner it breaks my
4 heart -- I mean, I know that early intervention is
5 important. But we have so many kids, if I may use partly
6 your metaphor there of the boat going down the rapids, no
7 oars, no one in charge, and it's about to go over the
8 falls.

9 And we have all of these students who have
10 limited to no skills and are going to be entering the
11 workplace. And we just need more help. We need more of
12 the research based in that area.

13 In the reform we're doing where I am everyone
14 is doing the research in early intervention. We know
15 that. But we need it for those adolescents, as well, and
16 adults, of course.

17 But any help you can give us there. Because I
18 listened to what you were saying. It's fabulous.

19 DR. FRANCIS: I'll just put in a plug for
20 NICHD. I'm actually attending a workshop next week on
21 adolescent literacy to develop a research agenda for the
22 area of adolescent literacy. That's Reid's group.

1 DR. FLEMING: What was that acronym?

2 DR. FRANCIS: I'm sorry?

3 DR. FLEMING: What was that acronym?

4 DR. FRANCIS: The National Institute of Child
5 Health and Human Development, Dr. Lyon's branch, actually.

6 MR BRANSTAD: I want to thank David Francis and
7 Sharon Vaughn for their outstanding presentations and
8 their very responsive and succinct answers to the
9 questions from the panel. I think this has been very
10 helpful to us. And we really appreciate the work you've
11 done.

12 I also want to use this opportunity to
13 personally thank Cynthia Haan, who is sitting behind me, I
14 think, just to the left, from the Haan Foundation.

15 The Haan Foundation has graciously provided
16 breakfast and lunch for the Commission and will sponsor
17 tonight's reception for the Commissioners as well.

18 So Cynthia and your foundation, thank you very
19 much.

20 (Applause.)

21 MR BRANSTAD: And now we're going to recess
22 until 2:00 p.m. promptly. We'll see you back here at

1 2:00.

2 (Whereupon, at 12:45 p.m., the proceeding was
3 adjourned, to reconvene this same day, Monday, February
4 25, 2002, at 2:00 p.m.)

5 8

6 A F T E R N O O N S E S S I O N

7 2:00 p.m.

8 MR BRANSTAD: Can we have your attention,
9 please? We're going to reconvene.

10 Todd Jones has got a couple of announcements to
11 make here.

12 MR. JONES: Okay. First, in front of you there
13 is a yellow packet. It has Alan Coulter's name on it. It
14 has nothing to do with Alan Coulter.

15 It's merely Alan has assembled these documents
16 on behalf of our next speaker, Larry Gloeckler, and
17 included materials that he shipped down to Alan, and Alan
18 has brought them here, saving us the difficulty of having
19 to carry them on airplanes. So we appreciate that on
20 staff.

21 Next is a handout that looks like this. It is
22 a copy of the places we're going tomorrow for our visits

1 in the morning.

2 This is not public information, in part because
3 we're being courteous to our local schools so that they
4 themselves are not swamped with a variety of folks who
5 want to tag along and see what you see. This is intended
6 to be an outreach for you.

7 And as a courtesy to Houston Independent School
8 District, we are going to go along to these schools, but
9 we don't want to create chaos in the schools when we
10 arrive.

11 So those are the two pieces. We'll have
12 another one after this presentation, a housekeeping
13 matter.

14 But with that, Mr. Chairman.

15 MR BRANSTAD: Okay. For our first presentation
16 this afternoon we have Lawrence Gloeckler.

17 Since 1989, Lawrence Gloeckler has served as
18 Deputy Commissioner for Vocational and Educational
19 Services for Individuals with Disabilities in the New York
20 State Education Department.

21 In this role, he serves as both the State
22 Director of Special Education and State Director of

1 Vocational Rehabilitation.

2 He currently leads a major reform effort of
3 both special ed and vocational rehabilitation in the State
4 of New York.

5 Gloeckler began his career in education as a
6 teacher of students with mental retardation. He also has
7 experience as a local level special education coordinator.

8 In addition, he taught undergraduate and
9 graduate level special ed courses at the College of Saint
10 Rose in Albany, New York.

11 Gloeckler lectures throughout the country on
12 the issues of services to people with disabilities and
13 performance-based accountability in government.

14 He served on the National Panel of Experts to
15 develop standards for transition programs for the National
16 Rehabilitation Accreditation Commission and co-authored a
17 monograph on Transition from School to Work and Community
18 Services.

19 For five years, Gloeckler served as a member of
20 the Board of Directors of the National Association of
21 State Directors of Special Education and is the immediate
22 past president of NASDSE.

1 He also served as chair of the Interagency
2 Relations Committee of the Council of State Administrators
3 of Vocational Rehabilitation and is now on the Board of
4 Trustees of CARF, the Rehabilitation Accreditation
5 Commission, an independent international not-for-profit
6 commission which serves as the standards setting and
7 accrediting body for rehabilitation and life enhancement
8 programs and services for people with disabilities.

9 He has many other professional activities which
10 are noted in the program that we have. I won't go through
11 all of those.

12 In 1999, Gloeckler received the Heritage Award
13 from the National Association of State Directors of
14 Special Education, which is given to a person who has made
15 an outstanding contribution in the field of special
16 education.

17 I am pleased to present Larry Gloeckler.

18 MR. GLOECKLER: Thank you. Two things I wanted
19 to mention. My mother told me long ago, Never accept the
20 invitation to speak after lunch. So I apologize to my
21 mother. And secondly, Never let your bio be longer than
22 your presentation, and that's pretty close. So here we

1 go.

2 (General laughter.)

3 MR. GLOECKLER: What you've asked me to talk
4 about today is aligning special education, both state and
5 local, accountability systems. And it's a departure from
6 what you've been doing so far today. So this is going to
7 be talking about some different issues. But it's just
8 really looking at the same issues from a different
9 perspective.

10 And what I want to do is talk to you about how
11 New York, as an example, has tried very, very persistently
12 to move to a system of accountability that's based on
13 results for children with disabilities.

14 I'll talk to you about some of the successes,
15 some of the areas where we still have lots of work to be
16 done, and some of the dilemmas in trying to accomplish
17 that.

18 I do want to mention that the presentation
19 slides in your packet, I will not start with the
20 recommendations. I was asked to put those first. I'll
21 put those at the end of my presentation. So I'll be
22 picking up about the fifth or sixth slide in.

1 In many ways this is a follow-up to what was
2 said this morning. Dan Reschly, Sharon Vaughn, and others
3 said many things that really allow me to pick up from
4 there, so to speak.

5 And I think the most important issue to
6 consider is, what do we want to be held accountable for?

7 And like it or not, in the last 25 years,
8 special education, particularly at the state level, but
9 also at the local level, has been held accountable for the
10 procedures that have been put in place around the
11 regulatory and statutory construct that we currently live
12 with.

13 And so accountability really is about, what do
14 you think is really important? And we have, up until
15 recently I would say, in the special education community
16 in most states and local districts, if you went and asked
17 people, How are the kids doing academically, for instance,
18 you could not get a good answer.

19 But what you could find out is, how compliant
20 were we with the process? Because that is what we were
21 being asked to focus on.

22 And in 1996 New York State made a decision to

1 break that model. And we've been moving away from it ever
2 since, not always with the support of the Federal
3 Government, not always with the support of people in our
4 state, quite frankly.

5 But we've decided that is the way that we're
6 going to see I think the real vision of IDEA come to be,
7 so that's where we're going, and that's where we've been
8 going since then.

9 But if you look at this first slide, this is
10 why you need school accountability.

11 It's got to be based on the fact that all
12 children can learn. I think we saw evidence this morning
13 that that is true.

14 It should be based on data, not on emotion,
15 intuition, or process.

16 The public does have a right to know. And the
17 public has not been satisfied with the state of public
18 education in general -- I think everyone knows that -- and
19 I think now, as information is becoming available, with
20 the state of special education.

21 What a system of accountability does -- and
22 this is in general, now -- is align standards with

1 graduation standards and assessments; it allows you to
2 identify where schools are not performing well; it allows
3 you also to identify where schools are either performing
4 well or rapidly improving.

5 It certainly now meets the ESEA requirements,
6 which are very specific around accountability.

7 And it most importantly, I think, links
8 performance with planning requirements and allocation of
9 resources. And that's a very, very important element of
10 aligning systems. And I'll talk about that as we go.

11 I promised a long time ago in my state that I
12 would never talk about any of these issues without first
13 talking about the vision that we have for people with
14 disabilities. And I want you to particularly just kind of
15 look at this for a minute.

16 We have to be clear on what our vision is. And
17 without a clear vision, we may end up in a confused state.
18 And I think to some extent that's where special education
19 has gotten itself to, because the vision may not be as
20 clear as it should be.

21 But this is our vision: That people with
22 disabilities, and ultimately children that we deal with

1 become adults. And when they become adults, they have
2 their own hopes, aspirations, and expectations that
3 sometimes I don't think we think about enough as
4 educators.

5 But it's to live independently; it's to enjoy
6 self-determination; it's to make choices; it's to pursue
7 meaningful careers; and it's to be allowed to participate
8 in the full range of what society is about.

9 That's our vision. And we have to keep that in
10 mind as we go, because we have to make tough choices and
11 are often pushed and pulled in all kinds of different
12 directions based on philosophical bents of the political
13 environment or the stakeholder environment. But we try to
14 stay true to this vision.

15 And we established very clear goals in our
16 state. These goals were, by the way, established in 1996.
17 They haven't changed.

18 And I think that we based these goals -- I
19 don't think -- I know we based these goals on existing
20 data in our state at the time.

21 And they told us some things. One is that we
22 need to eliminate -- this is the way we put it --

1 unnecessary referrals to special education, because the
2 proportion of students in our school population that were
3 being referred and placed in special education was growing
4 year after year after year after year after year for more
5 than a decade.

6 So we weren't concerned about eliminating
7 referrals. We were concerned about eliminating
8 unnecessary referrals, and to me that means referrals that
9 didn't have to happen, had the proper supports,
10 interventions been in place.

11 Now, we've been focusing on that since 1996. I
12 think today we heard a lot of research that says that's
13 really important.

14 We also felt that, for the children who had
15 been unnecessarily placed, it's not a question of dumping
16 them back into general education. That would be a
17 terrible travesty for those students. But it's a question
18 of having a supportive of general education environment to
19 allow children to return to so that the very reasons why
20 they were referred in the first place don't reoccur.

21 Now, our first two goals are not even about
22 special education, even though they're listed under our

1 special education goals. They're about building a
2 supportive, effective general education environment.

3 Then, we feel very strongly to hold students to
4 high standards of accountability -- excuse me -- to hold
5 services to high standards of accountability so that
6 students are experiencing improved results.

7 Ensuring that kids are educated with their non-
8 disabled peers, that sounds like a no-brainer. I'll show
9 you why in New York it has not been.

10 Providing mechanisms for school districts to,
11 again, expand prevention support services. We think
12 that's an absolutely crucial element.

13 And finally, having individuals, families and
14 school personnel with the knowledge and skills to allow
15 students to attain high standards, not just to be able to
16 manage the process of special education, but to allow
17 students to attain high standards.

18 Those are what we think are important,
19 therefore, those are what we want to measure. And
20 therefore, those are what we want to be accountable for.

21 And we have held ourselves up to very high, I
22 think, standard of public accountability in our state,

1 which sometimes in New York is a very painful thing.

2 I think Reverend Flake would know that we're
3 not always easy on ourselves. We're probably the hardest
4 on ourselves of anybody. And if individuals are not
5 satisfied with these particular goals, they make
6 themselves known.

7 But we have steadfastly focused on these goals
8 as what we think is most important and tried to align all
9 of our accountability systems around these particular
10 goals. And there are only six; as I said before, they
11 haven't changed.

12 We need to be clear with IDEA in this
13 reauthorization, what are our goals? Because we do have a
14 law that was constructed with the primary goal of access
15 to education. And that I don't believe is the goal
16 anymore. I think the goal has changed and evolved over
17 time. And we have to realign the statutory provisions to
18 the goals of today.

19 And I'll go real quickly through how we've
20 tried to do that in our state and show you the mechanisms
21 we used to align things and what's happened as a result.

22 I'm not going to go deep down into all these.

1 I could show you slides to the point where you became
2 almost comatose here, but I'm just going to take you
3 through a few of them in each of the areas to give you a
4 flavor of it.

5 These are goals that are linked together,
6 eliminating unnecessary referrals and assuring children
7 returning to supportive environments.

8 I want to show you this goal or this particular
9 piece of data. 1999-2000 year was a milestone for us or a
10 watershed or a SEA change or whatever word you want to use
11 here, because we for the first time in decades had seen
12 the special education classification rate plateau.

13 Now, why? Well, one is we had been aligning
14 our systems of accountability around this issue.

15 And we were able to convince the legislature,
16 because of the data that we had available and the way we
17 made it public, some of that which is in front of you now,
18 that this was a real issue and that if we had more
19 resources available to prevention and support services in
20 the general education setting we would begin to see an
21 elimination of unnecessary referrals.

22 And although we are nowhere near where I know

1 many of you wish we would be in terms of bringing
2 effective research-based instruction into the classroom,
3 we're making strides and we're working hard at trying to
4 do that. And we're starting to see some effect.

5 And this is around the legislature over time
6 quadrupling the amount of prevention support services aid
7 that they provided to the schools in our state during
8 certainly emerging difficult times.

9 We'll keep tracking this, but it's an example
10 of, at least through performance-based approaches versus
11 the procedures, beginning to see a result.

12 Now, one of the issues we looked at is
13 race/ethnicity. And one of the things I will show you is
14 that not everything that we have to show you is good.

15 We have a disproportionate placement in our
16 state. This takes the discussion this morning and puts it
17 into the reality of a large state.

18 And you can see what it is. And we're tracking
19 this. We are intervening now with very specific
20 districts, because it's not true everywhere.

21 That's another thing I'll show you as we go
22 along. When we align state and local accountability

1 systems to begin to provide information to the public
2 around key performance measures, one thing I can tell you
3 is, there is very few issues anymore that are statewide
4 problems anywhere.

5 And we're beginning to be able to target in
6 where the problem really exists. And we must be allowed
7 under IDEA and the enforcement of IDEA to target where the
8 problem exists, target our resources and our energy, and
9 not continue to treat everything as if it's a systemic
10 statewide problem. I'll show you more about that, too.

11 But if we're going to deal with the issue of
12 classification rates, we're going to have to deal with the
13 issue of disproportionality. Even though they said this
14 morning that it wasn't a major, major piece of
15 classification or overidentification, it is a piece. And
16 we are not satisfied with where we are at this point in
17 time.

18 We also wanted to deal with the issue of
19 students being educated with non-disabled peers.

20 Now, for those of you who know anything about
21 New York, we've had a long history of providing special
22 education and were one of the first states to have a

1 statewide system of services for kids with disabilities.

2 But the system was designed primarily by parent
3 groups who set up special schools for a lot of their kids.
4 And those schools became the desired place, if you will,
5 for many children because the families felt it was -- they
6 were comfortable with it. So we had a history of lots of
7 special schools.

8 As 1975 came around, as the law began to seek a
9 different model, we've had a lot of turmoil in our state
10 adjusting from one point to the other.

11 Up until 1995, I would say, the primary
12 approach to solving the problem was to add more
13 procedures, add more requirements, more justifications
14 written down in the file, more information on the IEP
15 about LRE.

16 But what we saw was the problem wasn't changing
17 at all. People were justifying more their decisions, they
18 were adding more evidence of why they said they were doing
19 what they did, but the change was not happening.

20 The kids were not being returned to integrated
21 settings or to general education environments even though
22 we felt there were an inordinate number of children in

1 separate places, and I don't mean just classes, I mean
2 places.

3 So we decided -- again, this is one of our
4 goals -- we would move to a performance-based approach to
5 resolve this.

6 And you can see from this chart -- this is one
7 way of looking at it -- starting in 1996 down to '99-2000.

8 And our 2000-2001 data is better, by the way,
9 but I didn't bring it with me because it only just got
10 verified and I haven't presented it to our State Board of
11 Regents yet. If I presented it to you first, it would be
12 the last time I present any data to anybody.

13 (General laughter.)

14 MR. GLOECKLER: And I'm presenting it to them
15 in about two weeks.

16 But anyhow, the numbers actually are even more
17 pronounced. But you can see that in 1996, if you look at
18 the bottom white portion of the bar, we had almost 11
19 percent of our students identified as disabled in separate
20 settings in our state, a very high number. That number
21 now is down to 7.5 percent.

22 It hadn't moved for years. It hadn't moved for

1 years. But as we began to hold people accountable and
2 publish the results and target the places based on the
3 data that really were the issue, we began to see change.

4 You also see that New York State in 1999-2000
5 actually went above the national average in placement of
6 children with disabilities in general education settings.
7 That's a major breakthrough for the State of New York,
8 believe me.

9 However -- and this is something that I really
10 wish this Commission to think about, and this again has to
11 do with the issue of ethnicity and placement of racial
12 minorities in special ed.

13 When these kids are placed in special ed, there
14 is a very high probability that they're placed in special
15 classes. Now, you heard that today from a research
16 perspective.

17 Here's a factual picture: That in our state if
18 you're black or Hispanic you are placed in special
19 education classes -- that's the red bar -- at a very high
20 rate compared to other children.

21 And if you're African-American, you're placed
22 in the separate settings at a very high rate compared to

1 other children.

2 Now, that's fundamentally -- there's no
3 educational explanation for that except that many of these
4 kids in terms of special class are obviously educated in
5 urban environments, and the urban environments are those
6 environments which have been the last to break the mold,
7 if you will, of special classes as the primary mode of
8 educational service delivery. So there is some logic
9 there.

10 But this data has really opened a lot of
11 people's eyes. And because of it, because we're holding
12 people accountable for it, this will begin to change. And
13 I'll show you some of the change that's already happening.

14 The legislature agreed with us after four years
15 of ugly debate about this issue, about, are kids really
16 being separated or not? Our data finally convinced them.

17 They've required districts to do some very
18 substantial planning with the goal in mind not of better
19 procedure, but of results. And you can see that in the
20 year 2000 almost 5,000 children had been moved back into
21 integrated settings after years -- after years -- of no
22 movement at all.

1 So again, this performance-based approach, this
2 holding people accountable and measuring it and aligning
3 the state and local goals is beginning to make a
4 difference on this issue.

5 Here is a map. Alan made me promise that I
6 would show my map. So you'll know what New York looks
7 like by the end of this presentation.

8 You can see the red regions are regions that
9 highly segregate children in our state. And this is a map
10 of 1996-'97, when we started this process.

11 And I'll show you a map of '99-2000. Already
12 you can see it's different. In case you couldn't remember
13 that long, that's what it looked like. I know you just
14 had lunch.

15 (General laughter.)

16 MR. GLOECKLER: Now, if our plans are carried
17 through -- and you'll see, by the way, that the red is
18 kind of washing down to the lower part of our state --
19 that's what it will look like in the year 2003-2004.

20 Now, is the problem fully resolved? No. Can
21 we resolve it any faster? I don't think so. But it's
22 really moving away from where it was, and we're now

1 zeroing in on the real problem, the final place to deal
2 with.

3 It's an island out there that's now famous for
4 figure skaters, and we have an issue that we have to deal
5 with there.

6 But again, this approach of aligning, setting
7 goals, what's important, what you would be accountable
8 for -- LRE in our view is a critical issue -- you can see
9 the difference that it's making.

10 Another one we set in 1996 that obviously is
11 the most I guess controversial now is the issue of holding
12 special ed services to high standards of accountability
13 for results. And of course we're now getting into a lot
14 of debates around that issue.

15 Now, we've gone through in our state a nine-
16 year phase-in of an upgrade of our standards for general
17 education. Students with disabilities do participate in
18 our state assessments at a very high rate.

19 Even before the alternate assessment
20 requirement was put in place, which in our view, then,
21 requires 100 percent participation in an assessment, we
22 were still at over 90 percent in almost all of our

1 assessments, 90 percent of students with disabilities
2 participating in our state assessments.

3 Now, while some students with disabilities
4 will -- I think we heard that again this morning -- never
5 do well on our state assessments, many can if given the
6 opportunity and access to rigorous curriculum, quality
7 instruction, and high standards, along with that,
8 obviously, expectation.

9 For more than half the students receiving
10 special ed in the districts that are average or above
11 average and certainly for those students that have
12 disabilities which are not cognitively based, those
13 students will and can reach standards.

14 And that's even more important if the
15 percentage of students receiving special education
16 continues to grow, because it's certainly a very, very
17 different population than it was when this law was
18 constructed.

19 And if the expectations -- the students in
20 special ed today cannot be treated with the same
21 expectations as the students that were identified as
22 needing special education when 94.142 was put in place.

1 It's just illogical and irrational to have those
2 expectations stay the same.

3 Now, let me show you what we're doing here.
4 This is Fourth Grade English Language Arts. I'll just
5 take you through this a little bit. You don't need to
6 know this much about New York, but really what I'm trying
7 to show you is the mechanisms.

8 General education, this is -- we have four
9 levels of standard in our state in our tests. It's pretty
10 simple. Level 1, you haven't met any standards; Level 2,
11 you've met some; Level 3, you've met them all; Level 4,
12 you've exceeded them. Okay?

13 And this is Level 3 and 4, met them or exceeded
14 them. And you can see that our general ed population, the
15 trend is increasing in the Fourth Grade English Language
16 Arts, and our special education population now is that 25
17 percent of our students are meeting or exceeding
18 standards.

19 Now, the good news here you can't see is that
20 almost all of the other kids are in Level 2, which means
21 they have met some, and we think with good instruction
22 could have met all or will meet all over time.

1 Here is an issue I want you to pay attention
2 to, because it's got to be an issue all over this country.
3 We have begun to display our data this way all the time.

4 We use New York City separately because it's
5 such a large proportion of our students; our other large
6 cities; our urban-suburban poor; our rural poor; our
7 average, which could be any type of district, but average
8 wealth; and our low, which means high wealth, low need for
9 resources, they have lots of resources themselves.

10 And look at the data. From special education
11 students in New York City, only 11-1/2 percent meeting the
12 standard or exceeding it to 54.9 percent in the wealthy
13 districts in our state, which is 100-and-some districts.

14 Somebody this morning said that special
15 education is very different in districts without resources
16 versus districts with resources. I have data here that
17 will make that irrefutable over and over and over again.

18 Now, among those districts, urban-suburban,
19 poor rural, there are schools that do exceedingly well.
20 So I have to tell you, although the kids do bring more
21 dilemmas to school, it isn't the kids completely. It's
22 the program and the services they receive when they're in

1 school that makes the difference.

2 So I do not want to say that if you're in a
3 poor district you just accept poor achievement; that's
4 wrong. But clearly we need to target our resources to
5 districts so they have the supports to be able to provide
6 the right kind of education. And we have data that, if
7 anybody wants to argue that, I'll be happy to.

8 And again, I'm only showing you a few things
9 about this issue.

10 Here's math. Now, for some reason or other
11 kids do better in math in Fourth Grade than they do in
12 English Language Arts, and I can't figure that out,
13 because when my son brought home his Fourth Grade math, I
14 was in trouble. And he's not that -- well, I'll explain
15 that later.

16 But you can see again, as the results begin to
17 get published and as you start to track, the trends are
18 going up. And 38 percent of the kids, or almost 39
19 percent, are achieving in math at the standard. And
20 again, most of the other kids are almost there, but not
21 quite there.

22 But look at this, same picture. This is,

1 again, starting with New York City and moving up the
2 ladder, there's a stair-step, if you will, to resources.

3 And you get to the average districts, and more
4 than half the kids are already at standard, and in the
5 wealthy districts almost three-quarters of the kids are
6 already at standard. So you can see this effect every
7 single time.

8 It's been an important piece of our
9 accountability system to be able to measure this. It's
10 really having an effect on public policy makers in our
11 state. It's hard to walk away from this, it's so clear.

12 Now I want to point out another problem.
13 Somebody mentioned this morning the middle school dilemma.
14 It's a tremendous dilemma for kids with disabilities in
15 our state, and I would bet everywhere, but certainly in
16 New York.

17 Look at the results here. This again is
18 middle-level English Language Arts, Eighth Grade.
19 Students in general education not doing very well, quite
20 frankly, and students with disabilities doing horrible.
21 Same thing in the math scores. What a dramatic difference
22 from the Fourth Grade assessments.

1 Now, I think that this is an area that you have
2 to think about in your thinking about recommendations for
3 IDEA.

4 It's not just that there's a middle-level
5 problem in this country, but the children with
6 disabilities, the services they're receiving are
7 woefully -- I don't want to say inadequate -- they're
8 certainly woefully short of meeting any standard in terms
9 of reading and math, which, by the way, is fairly basic to
10 success as an adult.

11 Now, I want to move you on to another area.
12 New York State has a history of high stakes assessment.
13 The first Regents Exam in our state was given in '77,
14 1877 -- I forgot to say that. That's true. And it was to
15 get into high school, not out of high school, which I
16 think is an interesting phenomena.

17 Imagine people complaining then about their
18 tests. Hey, I don't have to go to high school if I fail
19 this test. No.

20 (General laughter.)

21 MR. GLOECKLER: But anyhow, but ever since
22 1977-'78, any student in New York State, in order to get a

1 local or Regents diploma, had to pass a battery of exit
2 exams. So it's been the case for us for 25 years. And so
3 that hasn't been a big debate like it is in some states
4 where they're just starting out that discussion.

5 When that policy was adopted back in 1977,
6 there was a hue and cry around that issue. And it was
7 about, It's unfair to the kids, it will never succeed,
8 they're all going to drop out of school. And we have
9 newspaper headlines to verify those debates. And the
10 special education kids will not have a chance.

11 And it sounds very familiar, because it's very
12 much the same debate that's going on now as standards are
13 being put in place around the country.

14 We then had the public policy makers at the
15 time establish an IEP diploma, which is a diploma based on
16 completing IEP goals, that was in place for those kids
17 who --

18 First of all, people thought that would be the
19 primary diploma for students with disabilities because
20 they would never be able to pass the assessments. And as
21 it turns out -- I'll show you the data on that one.

22 We had some schools in our state in 1978 and up

1 until 199-, I'd say -6, who never gave a Regents Exam to a
2 student with a disability.

3 We had one school district just to the north of
4 the city that Reverend Flake is from, just to the north,
5 which is also a city, but I won't name it, that never gave
6 a Regents Exam to a single student with a disability,
7 never.

8 What that meant was, when the competency level
9 program was put in place, that became the curriculum and
10 the expectation for students with disabilities, even
11 though at the time people thought they would never succeed
12 in that anyhow.

13 In 1994 the Regents adopted a policy to phase
14 out the competency program. So now, instead of having a
15 competency level and a high level, we were just going to
16 have a high level. Shock waves were sent through the
17 special education community, all -- by the way, all those
18 waves ended up coming towards my office.

19 (General laughter.)

20 MR. GLOECKLER: It was like I was the epicenter
21 of that particular earthquake, and logically so, because
22 the competency level program had become now the special

1 ed -- or the program for kids with disabilities and
2 others, but mostly -- I mean, for kids with disabilities
3 that was the one.

4 So knowing that was all true, we created a
5 safety net in our state. So we do have high stakes
6 assessments, we have a new standard rolling in for
7 everybody. Children with disabilities can continue to
8 take the competency tests if they don't pass the Regents.

9 And does anybody here have a Regents diploma?
10 I've never gone anywhere where somebody doesn't have it.
11 It's amazing. Why don't you go back to New York? We need
12 people. No.

13 But anyhow, the Regents Exams, they're not easy
14 exams, and the Regents diploma was always an entry-level
15 to college kind of diploma. Now it's for all kids in our
16 state; that's how high the standards have been raised.

17 But our safety net is still in place for
18 children with disabilities, because if you want to be able
19 to study this issue, again, measure performance before you
20 make a final public policy decision around issues such as
21 this. Let me show you what's happened, though, since.

22 Now, you can see 1997 on this slide, up to

1 2000. And I want you look at the number on the blue thing
2 there. If you can see, in 1997, 4,545 students with
3 disabilities were allowed to take a Regents Examination in
4 our state; that's the number. In the year 2000, 9,848 had
5 passed the Regents Exam in English Language Arts.

6 Now, for even I who didn't pass the Regents
7 Exam, because I didn't grow up in New York, I know that
8 that's twice as many now passing it than took it. Why?
9 Because the opportunity was created for them to begin to
10 have access to the curriculum and to begin to get the
11 supports they needed.

12 And the expectations on the system, the
13 accountability on the system was that any child with the
14 capability has to have the opportunity, and we expect
15 those children to be supported so they can achieve the
16 standard. That's pretty dramatic. I didn't mean to hit
17 that that fast.

18 But let's take a look at some other Regents
19 Exams. Mathematics, 6,000 took it in the year 1997, 7,000
20 passed it in the year 2000. Again more passed it than
21 took it, and again it's about opportunity.

22 Now, look at the big gap between those taking

1 it and those passing. People always point that out to me,
2 particularly those who don't think these kids should be
3 doing this. I'll show you more about that when I get to
4 the safety net.

5 This is global studies. 10,000 are passing
6 this already, and they don't even have to pass it yet to
7 graduate. It's not been phased in yet. And only 5,000
8 were taking it in the year 1997.

9 Government, U.S. History and Government, 4,000
10 taking it, 6,200 passing it.

11 Now, let's go to the next slide, because here
12 you see the results by need/resource capacity, is what we
13 call it.

14 You can see in New York City, of those -- this
15 is cohort data now, those who were in the Class of '96 in
16 Ninth Grade or the Class of '97 in Ninth Grade. You can
17 see in New York City and large cities are actually losing
18 ground on this issue.

19 Some of it has to do with their policies about
20 moving from class to class now.

21 And then, urban, rural, average, and low are
22 all gaining ground on children passing these examinations,

1 and in fact 81 percent of the students in the wealthy
2 districts in our state are passing who were in the cohort
3 of receiving special ed services in 1997 and in Ninth
4 Grade have passed the Regents English Exam, 81 percent.

5 Same thing in math. Here New York City is
6 making gains, and the large cities again are losing
7 ground, everybody else has gained dramatically.

8 Where does the problem exist? Where should we
9 put our resources and time? Who needs to really be
10 working on this issue? This data tells us.

11 It's not about putting in more procedure and
12 more process and tracking more paper. It's about zeroing
13 in on these instructional programs and beginning to
14 measure ways to make a difference.

15 And we heard this morning -- and I've heard it
16 over and over, and these folks, they know what they're
17 talking about -- the information and strategies and
18 methodologies are already out there. How do we get them
19 from where they are to there? That's our challenge.

20 It's not an issue of, can it be done? It's an
21 issue of how it will be done.

22 Here's our safety net. Here's a fascinating

1 piece of information, as far as I'm concerned. And I know
2 some people think I should get a life because I think this
3 stuff is fascinating.

4 (General laughter.)

5 MR. GLOECKLER: But if you look at reading and
6 writing, which is equivalent to the English Language
7 Arts -- this is the old competency test still in place for
8 students with disabilities -- look at how the number of
9 kids taking it has dropped dramatically.

10 Why? They don't need it. They didn't need the
11 safety net, even though everybody thought they would
12 definitely need it. A lot have, but a lot haven't.

13 In mathematics, the same is true, the numbers
14 dropped. Look at the numbers in science and global
15 studies. The numbers taking these tests are now across
16 the board dropping. But the numbers passing them are not
17 going down except in global studies. And we have to
18 figure that one out.

19 But if you look at the by and large, they're
20 either staying the same or going up. And these are
21 probably the least capable or least prepared now of the
22 special ed population, because all the other special ed

1 kids have passed the Regents Exam.

2 So we've got a smaller group, the kids are not
3 probably doing as well instructionally, and they're
4 passing the competencies at a higher -- at the same level.
5 In other words, it's a better success rate.

6 Why? Because I believe the curriculum is more
7 rigorous, they're getting real access now to the general
8 education curriculum and in most cases better instruction.

9 And I won't go through all the stuff that we've
10 had to realign to make this happen, but there's a lot.

11 Here's another map, Alan. This is for you. I
12 just wanted to show you the districts that are doing well
13 in Third and Fourth Grade math. There's 184 districts
14 that have students with disabilities succeeding at the
15 standard 67 to 100 percent.

16 It's not a statewide thing. You've got to
17 begin to zero in on, where does the problem exist?

18 Now, here is a statewide problem. And I think
19 that comes out very crystal clear. That is Eighth Grade
20 math. Now, if we have something that we would stand up
21 and confess to as a statewide problem, here it is.

22 And as you can see, we are not hiding this.

1 We're putting it out in very stark information to the
2 public and to our public policy makers and hopefully to
3 the Feds to say, We need to target this issue.

4 I don't want to add one more procedure around
5 Eighth Grade math. I want to be able to focus in our
6 resources on resolving this issue. And I want the people
7 who know how to do this to come in to New York, if they're
8 there already to raise their hands, and to begin to roll
9 up their sleeves and say, How are we going to change this?
10 Because that is a real problem.

11 Now, another issue I wanted to show you, again,
12 from a map's perspective. One of the questions I always
13 get is, Well, how many kids are actually taking these
14 Regents Exams and doing so much better? Is it really a
15 high percentage of the population or a low percentage,
16 just the kids who are doing -- you know, real smart kids
17 with disabilities or is it everybody?

18 Well, here's an example. This is percent who
19 took it. You can see the yellow districts, two-thirds to
20 100 percent of those school districts had all their
21 students with disabilities taking those English Regents.

22 The blue is between a third and two-thirds,

1 although most, I have to tell you, is above 50 percent.

2 And then, the red districts are where the participation
3 still is not as it should be.

4 If you look at percent passing that took it,
5 statewide that's pretty impressive. The red, I keep
6 hating to target red, but that's where we have to spend
7 our time.

8 And then, finally, looking at the same thing in
9 math, you can see where the issues exist and the
10 discrepancies across the state. There's no single
11 statewide pattern except for the large cities.

12 And then it comes to the end, about getting
13 diplomas, because that's the end for many, the exit
14 criteria in our state.

15 Now, remember that when the competency tests
16 were put in place, kids would never be able to do it.
17 Well, you can see that in 1998 almost 60 percent of the
18 students with disabilities were passing the competency
19 tests to get a local diploma.

20 Now, only 54 were in 2000, but that's because
21 the Regents Exams had gone from 5.1 to 8, I mean,
22 diplomas.

1 Now, the Regents diploma in the year 2000-2001
2 will be at about 10 percent, so in four years it's
3 doubled.

4 Now, remember there were kids in our state that
5 got no opportunity ever to be in a Regents level program,
6 and now 10 percent of that population is now getting a
7 Regents diploma, which requires passing five tests at the
8 Regents level.

9 Now, for those kids who are challenged by those
10 assessments, we need to address that. But I am so happy
11 to say there is a whole group of kids who never had the
12 opportunity who are now succeeding. And we can't forget
13 that, either.

14 We have to look at the glass being half empty
15 and half full and look at it as two glasses, and pour one
16 water in the half-empty one into the half-full one, and it
17 will become full. And think about that.

18 So there really is a lot of ability, in my
19 view, for kids with disabilities to go much further along
20 in the educational program than people have ever given
21 them credit for, the people meaning the educational
22 system, and perhaps the families, too, who have been

1 convinced sometimes to keep low expectations in place.

2 Our data says, given the opportunities and
3 supports, that's not accurate; that given good instruction
4 and access to appropriate curriculum, these kids can do
5 quite well.

6 I want to go to one other issue, because it's
7 always brought up.

8 Before I do that, though, look at the same
9 pattern. Eighty-seven percent of students in wealthy
10 districts are graduating with diplomas -- this is kids
11 with disabilities -- passing state assessments, 75 percent
12 in average districts. By the way, those two groups make
13 up more than half our districts. And then, again, we got
14 40 percent in New York City.

15 In many of these statistics -- I want to say
16 this, I think it's important to be honest about this --
17 the kids in special education in our state in the wealthy
18 districts and in some cases in the average and wealthy
19 districts are all performing in the general education
20 population in our cities.

21 That is something that has to be said, and it
22 has to be publicized, and it has to present a challenge to

1 people, because that is just plain unacceptable, and it's
2 wrong, it's wrong. But the data here is clear that it's
3 true. I don't happen to have that on these slides,
4 because I didn't want to be here forever.

5 But if you look at this particular slide,
6 again, children exiting high school. We have a standard
7 in our state -- it's in that orange book, if you wonder
8 what that's about, it's what we set as standards for kids
9 with disabilities in terms of performance -- that 80
10 percent will meet the goal, the goal of 80 percent
11 graduating with a local diploma or Regents diploma.

12 Now, if you look at this particular slide, the
13 yellow districts are 67 to 100 percent. But among those
14 districts, 90 of them have graduated every single student
15 with a disability with a diploma, having earned it by
16 passing examinations.

17 And 273 of our districts, which is one-third of
18 the districts in our state, have met our standard already.

19 When we set that standard, we were told it was
20 too high. Too high for who, for the adult or for the kid?

21 And many of the things that were pushed back on
22 were because adults don't want to be held accountable

1 because the results may make them look bad. We have to
2 get away from that and just be honest and accept what we
3 have and continue to work on making it better.

4 This is the drop-out rate. This is what I
5 wanted to get to.

6 Now, in our state this is the way our general
7 ed drop-out rate is created.

8 I know you're used to seeing 40 percent and 90
9 percent and all that. But in our state and in other
10 states they use this methodology for general ed, so we use
11 the same methodology for special ed when reporting it,
12 because otherwise it doesn't mean a damn thing. It's got
13 to be comparative to the general ed population.

14 The main thing is here, you can see it, it's 50
15 percent higher, so that's the bad news.

16 But our drop-out rate goes up and down all the
17 time. It has not gone up because of raising standards, it
18 has not, not for these years.

19 Drop-out rates by ethnicity. The Hispanic
20 population has the highest drop-out rate in our state;
21 African-Americans are second, and they're very much higher
22 than the white, Asian/Pacific, or even the Native

1 Americans in our state.

2 So you can see that statewide average masks
3 very discrepant information about drop-outs in our state.

4 And again, that's looking at our state from a
5 drop-out problem. It's not a statewide issue at all.

6 It's a very specific issue in very specific places.

7 So raising standards and creating higher drop-
8 outs, you can't go away from raising standards, because
9 it's going to become a problem for the state. It may be a
10 problem for certain places, and you have to go in and deal
11 with it there.

12 Quickly, how do we do all this? Because I
13 showed you now what the results were, I want to go back to
14 how we do it.

15 We have 14 key performance indicators. A
16 message I want to try to get across is, it's important for
17 states and local districts to measure key indicators and
18 to focus on key indicators and not have hundreds and
19 hundreds and hundreds and hundreds of things that are all
20 treated equally importantly and expect to really make a
21 difference.

22 You've got to zero in on what you think is

1 important and put your energy and your resources behind
2 them.

3 These are our 14. These are about achievement,
4 but you also can see it's about diplomas, it's about drop-
5 outs, classification, integration, disproportionality,
6 post-school plans, and transition. Those are what we
7 think are the most important things.

8 If we could get good results on all of these, I
9 don't know what the difference in the procedures would
10 even -- I don't know what difference it would make,
11 honestly.

12 There are rights that are critical that have to
13 be maintained. But the process, if it came at the end to
14 be solid in every one of these for each of our children,
15 it would be a great process, whatever it ended up being.

16 But those are what we focus on. And we align
17 all of our accountability issues with school districts on
18 those issues.

19 And we look at our monitoring not by cyclical
20 checklists of regulations. Although we do have that
21 embedded in our monitoring, our monitoring is about
22 looking at the data, what we think is important,

1 achievement, classification, drop-out, you've seen it on
2 the list.

3 We look at districts where the data and parent
4 complaints are considered for district review. We look at
5 districts where we think that they have a good chance to
6 get to our goals based on their data. And we look at them
7 differently.

8 We have districts that are exceeding all of our
9 standards. And those we go look at as an opportunity, as
10 a place to learn, as a place to bring effective practices
11 into neighboring districts.

12 And then, we have others that need focused
13 reviews, where LRE has been a problem forever and ever and
14 hasn't gotten resolved; where achievement has been a
15 problem and hasn't gotten resolved; where drop-outs are a
16 problem and hasn't gotten resolved.

17 Rather than looking and trying to fix
18 everything all at once, let's deal with the critical
19 issues and move on from there. So we've tried to realign
20 our monitoring that way.

21 This just gives you more detail about our
22 monitoring.

1 I do want to point out, for instance, in this
2 particular one where we're looking for best practices
3 because they have great data. You know, that is less time
4 spent in those districts than we ever used to. We will
5 not go there very often, and we won't spend much time
6 there if the data holds up.

7 But here we're looking at a total review of the
8 district, and we're looking at it being done by a team of
9 people that include parents, teachers, and administrators
10 from the school district and us as a team trying to
11 identify the problems based on the data and design
12 strategies to move the data in the right direction, not
13 just compliance, although we have built in, as you can
14 see, procedural compliance protocols into each of these.

15 So they are looking at their procedures. They
16 can't be dishonest about it because the community is
17 looking at it with them. But the real issue is, how do we
18 improve the results? And on and on.

19 So I just wanted to show you we are
20 differentiating our monitoring and our oversight based on
21 our accountability alignment.

22 Now, this is what our school accountability

1 system is. Every student with a disability is in every
2 school accountability component. So we have settled the
3 issue of, do all the children count, by answering -- and I
4 can give a yes or no answer on this one -- yes.

5 They are in school report cards, aggregated and
6 disaggregated; they are in determining need for local
7 assistance plans; schools under registration review; which
8 schools are furthest from state standards; and in adequate
9 yearly progress.

10 They are not out of any of that, and we will
11 not allow the kids to be set aside, because if you're set
12 aside, you're not important and you will not be measured.

13 We publicly report our data. You have one of
14 them in front of you. We have the grandfather or -mother,
15 depending on how you look at it, of performance reports
16 here. I have, by the way, ten copies of these. I'm not
17 taking them back. Bob, did you get yours?

18 DR. PASTERNAK: Thank you.

19 MR. GLOECKLER: You're welcome.

20 Bob said once that we don't have any data;
21 every page.

22 But what we have taken is every one of our key

1 performance indicators by every school district in our
2 state alphabetically by county, so everybody can find them
3 real fast, and list the results.

4 And we've also done a lot of analysis and
5 transformed them into, you know, different kinds of graphs
6 and bars around all the key issues. And they're in much
7 more detail than what the others are.

8 And they're over there. And you can pass those
9 around. There's Volume 1 and 2, so we're getting more and
10 more data.

11 Our school report cards, as I said, have this
12 data on it. And as a result of all this, what we've been
13 doing is reallocating our resources.

14 And again, I think that IDEA and its constructs
15 have to allow this type of thinking to be done without
16 concern for being out of compliance as a state.

17 We have to be able to use our training dollars,
18 our technical assistance efforts, and our quality
19 assurance efforts specifically to focus in on where the
20 problems are and not treat everything equally importantly
21 and as if everybody has the same problem. It's a very,
22 very important thing for us.

1 I want to juxtapose that -- I brought this as
2 my prop -- against this. Bob, don't go away yet. This is
3 a good one.

4 This is the eligibility document from OCEP.
5 This is the fifth draft of ours this year. And it's what
6 we have to submit and go back and forth with to the Feds
7 to be eligible for Federal dollars. And it's basically
8 page -- how many pages is it -- in this case it's 73 pages
9 of requirements.

10 And we get into debates about the words. And
11 we're right now debating whether -- if I can read it to
12 you here.

13 Under transition, we have been asked to change
14 our State regulations from inviting a child to a meeting
15 if it discusses transition services -- that what's the
16 Federal regs say more or less -- to ours say, Invite a
17 child to transition if it's about transition or if it's
18 about looking at the need for services.

19 So because it doesn't line up word for word, we
20 would need to change our regulations, which means going
21 through, you know, a major review in our state, public
22 hearings, reprinting thousands and thousands of documents,

1 and on and on and on, and at the end we will have done
2 nothing except spend money.

3 And we have to get away from this, I believe,
4 and get to this.

5 Now, we have already gotten away from this and
6 gotten to this. But really, see, we haven't gotten away
7 from this. We're doing them both now.

8 And there's important things in here, but it's
9 lost in the mire and the muck of things that aren't
10 important.

11 And I hope you all have the courage to deal
12 with that issue, because, unless you do, while we'll be
13 trying to get better results, we'll be spending all of our
14 time resources on justifying all the documents and
15 procedures that go along with the statute.

16 I thought by now you'd be completely comatose,
17 and actually only two of you have fallen asleep. I won't
18 mention your names.

19 (General laughter.)

20 MR. GLOECKLER: But I just wanted to -- I saw
21 this cartoon recently, and I thought it would be a good to
22 go back to to remember why we're here.

1 It's somebody telling our Commissioner that no
2 child should be left behind. And our Commissioner went
3 down to the superintendent and said, Leave no child
4 behind. And our superintendent told the principal, Don't
5 let any child fall behind. And of course the principal
6 told the teacher, No child shall get behind and fail. The
7 teacher told the parents, Don't fail to get behind your
8 child.

9 Now, here's one of me and my son. This is a
10 true story right here. Don't fail or it's your behind.

11 (General laughter.)

12 MR. GLOECKLER: I had that conversation just
13 recently, actually.

14 And I'm going to have to get my son a dog,
15 because he doesn't have one right now. But then he can go
16 say to his dog, It's all running downhill.

17 DR. BUTTERFIELD: We need those slides.

18 MR. GLOECKLER: Yes. Well, I think, you know,
19 the point here is that we have to make sure it doesn't get
20 to this point. Okay?

21 It's not the kid that's behind should be, you
22 know, rewarded for failing. It's the family's, it's the

1 teacher's, it's the principal's, you know, it's the
2 superintendent, and it's the Federal Government.

3 We have to be really good now at how we get to
4 leaving no child behind. And we have to get to where
5 leaving no child behind on key educational performance is
6 what it's about, not leaving no child behind in the paper
7 chase.

8 So as a result of that, let me give you my
9 recommendations very quickly, as I go back to the dog.

10 Oops. I'm sorry. I have to say this. We do
11 have a commitment -- I'm being serious again. This is our
12 Commissioner of Education's performance agreement with the
13 State Board of Regents in our state.

14 And it says a 4 percent increase in the number
15 of students meeting graduation standards. That's a
16 commitment publicly.

17 By the way, this is my performance agreement
18 with my Commissioner: There will be an increase in the
19 number of students with disabilities earning Regents,
20 local, and high school equivalency diplomas.

21 And this is the performance agreement of the
22 person who reports to me in special ed policy: Percent of

1 students getting diplomas; percent of students dropping
2 out will decrease.

3 And there's more to all this. I just gave you
4 examples.

5 The point is, we have made a commitment in our
6 state. It's a real commitment, because it's public.
7 These documents are available to people, they're pasted on
8 our walls.

9 We have to make the same commitment that we're
10 asking others to make as public policy makers, and so does
11 the Federal Government, and so does the local school
12 board.

13 It's about good quality instruction, but it's
14 about supporting it being able to happen and be focused
15 and be undeterred and not gotten confused by clutter.

16 So I just wanted to let you know we have made
17 those commitments. And if you want to remember what mine
18 was, there it is. That's only one of about eight.

19 Now, let me go to my recommendations:

20 Every student has to be included in the
21 accountability system. I think that's fundamental base-
22 line, Step 1.

1 Accountability must be on key performance
2 indicators. If you measure everything, you measure
3 nothing. Measure what is really important in terms of
4 staying with it, analyzing it, using it to target your
5 resources. They have to be -- I just said that.

6 Monitoring and oversight at the state and
7 Federal level has to be allowed to focus on improving
8 outcomes rather than just devoting extensive time on every
9 process requirement, significant or not.

10 There is substantial research that says that
11 health and mental health services in schools has a
12 dramatic effect on key performance indicators. We haven't
13 talked about that yet here, or you haven't talked about
14 that yet.

15 We have to resolve the age-old disputes that
16 are allowed still by Federal statutory provisions so that
17 we can quickly and easily have program collaboration and
18 pooled funding to get those services into our schools
19 where the need is.

20 Prevention and intervention have to be
21 available to everyone that needs them when they need them.
22 And you've been saying that over and over and over.

1 Please do that. Please do that, or recommend that, I
2 guess I should say. You really don't have the power to do
3 it.

4 Teacher preparation programs. Among the other
5 issues that have been talked about, I don't want this to
6 go away. There has to be an infusion on issues about
7 academic achievement.

8 Many special ed teachers, most special ed
9 teachers in this country, cannot teach content areas, and
10 yet we're referring children to them so that they can be
11 taught to graduate. Think about that. It doesn't line
12 up.

13 And they know very little about performance-
14 based accountability systems. They have been taught about
15 the process. And they are angry about the process, by the
16 way, and the paperwork and are leaving the profession.
17 Let's get them turned around to do what they wanted to do,
18 and that is focus on the instruction, but also how to
19 measure performance effectively.

20 There's lots of room for consolidation of
21 process, there really is. I know people who don't want to
22 have anything change.

1 It's not about giving up rights. It should
2 never be about giving up rights; those are fundamental.
3 But the processes built around some of those benefits have
4 become impediments.

5 And new requirements and approaches. Whatever
6 you are able to convince public policy makers to do along
7 the issues you've been talking about and I hope some of
8 the things I've been talking about, it has to be in place
9 of, not on top of, everything we already have, not in
10 place of everything. That's why I used the word, some.

11 But some things have to be moved out of the
12 way, because we only have enough time and resources to do
13 what's important, and therefore we have to put in place
14 what's important.

15 Thank you. It's really been an honor to have
16 the opportunity to talk to you. I appreciate it very
17 much.

18 (Applause.)

19 MR BRANSTAD: Yes. Questions? Cherie?

20 MS. TAKEMOTO: Yes. I think I'll start with
21 your last point. So what are these in places of? What
22 are you suggesting get eliminated?

1 MR. GLOECKLER: I think we should go thoroughly
2 through all the requirements, I really do -- I mean, many
3 of them are regulatory, by the way, they're not all
4 statutory, in fact, I would guess as many are
5 regulatory -- and see whether they really are value added
6 or not.

7 For instance, in our state we have to give a
8 parent a consent form every time we interact with them.
9 And the consent form is now up to ten pages based on OCEP
10 requirements. We had a two-pager; they wouldn't approve
11 it. They redesigned it into a ten-pager.

12 We have parents tell us, I don't want it. But
13 if we don't give it to them, we're out of compliance.

14 That takes resources, it takes time. We have
15 people mailing them to people. You're printing
16 hundreds -- in New York City, hundreds of thousands, you
17 know, five or six times a year. What's the value added,
18 is my point.

19 There are things like that. There are reports
20 that we have to submit that, you know, that could be
21 consolidated.

22 There are just things that are getting in the

1 way. If you talk to teachers, they're very upset about
2 the work that they have to do that they feel is instead of
3 their teaching.

4 I can't tell you all that there are, and I
5 don't think I should be the one to. I think there should
6 be a group of people sitting down and saying, Let's go
7 through this.

8 And involve parents in that, involve teachers
9 in that. And get at what they are, just move them aside,
10 and in some cases just agree that they're not as important
11 as certain other things and look at them periodically
12 instead of every time you have to do something.

13 There's a whole bunch of things like that that
14 can happen.

15 MR. JONES: Let me remind everyone to use the
16 microphone when they're asking questions.

17 MR BRANSTAD: Jack Fletcher is next.

18 DR. FLETCHER: Thank you very much for an
19 informative discussion.

20 The question that I have has to do with the
21 issue of accommodations for kids with disabilities who
22 take, for example, the Regents Exam.

1 MR. GLOECKLER: Right.

2 DR. FLETCHER: Do you allow accommodations?

3 And if so, what accommodations do you permit?

4 MR. GLOECKLER: Yes. We do allow
5 accommodations, and I think they should be allowed.

6 I think that we try very hard to distinguish
7 between an accommodation and a modification. And by that
8 we mean, I think any accommodation that actually is an
9 accommodation, that allows the person with the disability
10 to have a level playing field, is okay.

11 When you change the test by modification, then
12 you've lost the purpose, and that doesn't seem to make any
13 sense, especially when the tests are not high stakes but
14 rather should be diagnostic or at least measuring where
15 kids are in a curriculum. So we try to distinguish
16 between them. By far the most used accommodation is time,
17 by far.

18 So accommodations I believe should remain in
19 place and should be used to level the playing field.

20 DR. FLETCHER: For children with reading
21 problems, for example, would you consider reading a test
22 to them an accommodation or a modification?

1 MR. GLOECKLER: It depends. We've had our --
2 in fact, we just sent out a memo to our field on this
3 issue because it's been so controversial.

4 Reading the test originally was to be a very
5 low incidence accommodation. Over the years, it grew,
6 based on our research.

7 And what we have said is that, if the test that
8 you're taking is measuring your reading skills -- and you
9 guys use the words better than I do -- then, you shouldn't
10 be reading the test. If it's for other types of
11 measurements, it may be appropriate to read the test.

12 MR BRANSTAD: Douglas Gill.

13 DR. GILL: Hi, Larry. Thanks for the
14 presentation.

15 MR. GLOECKLER: Hi, Doug.

16 DR. GILL: I want to go back to the goals for a
17 second --

18 MR. GLOECKLER: Sure.

19 DR. GILL: -- and when you have goals like
20 reduction of referrals and things like that.

21 MR. GLOECKLER: Eliminate unnecessary, I think
22 is the words.

1 DR. GILL: Yes. Well, okay. I'll take that.
2 My point is, do you think those goals are more reflective
3 of the state of general education, or are they more
4 reflective of the state of special education?

5 MR. GLOECKLER: We think they're reflective of
6 general education, and in fact we consider them general
7 education goals. And in fact, our main advocacy for
8 funding, even though as the Deputy Commissioner I'm
9 advocating for it right up front, it's for funding the
10 general education system.

11 DR. GILL: Yes. I think that's sort of in
12 keeping with part of what we heard this morning as that
13 whole notion of improving instruction generally --

14 MR. GLOECKLER: Yes.

15 DR. GILL: -- as opposed to just targeting --

16 MR. GLOECKLER: And providing the supports that
17 over time have eroded in general education.

18 DR. GILL: -- as opposed to just supporting
19 special education as if it were isolated from progress of
20 the general ed.

21 MR. GLOECKLER: Absolutely.

22 DR. GILL: Which kind of takes me to the second

1 issue. Some people -- and I know we've presented some of
2 these same kind of data in our own state.

3 And some of the criticism we have gotten is
4 that, Well, your increases in achievement of students with
5 disabilities on statewide tests is really a reflection of
6 the fact that you had more kids in special education that
7 probably shouldn't have been there than anything else.

8 And I wondered how you responded to those kinds
9 of issues.

10 MR. GLOECKLER: Well, two things. One is,
11 there probably is a grain of truth to that. I mean, if
12 you have children who have been referred who really should
13 have been maintained in the general education environment
14 with supports, and if they're getting supports in special
15 ed, they might do well, and they could have done just as
16 well if they weren't in special ed.

17 But the growth and the improvement in the
18 results far exceeds the growth proportionality in terms of
19 the numbers being referred.

20 So I would say that the recent dramatic growth
21 has more to do with the access to curriculum opportunity
22 and not to the kids, you know, because there's a curve

1 that's going like this versus a curve that's going like
2 that.

3 DR. GILL: Yes. And I guess my last thing I'd
4 like for you to comment, when you go back to the goals and
5 what we're seeing in terms of student increases in
6 achievement, et cetera, does the emphasis on inclusion
7 seem to exacerbate the differences between -- or
8 discrepancies between general and special education, or do
9 you think they mitigate those differences?

10 MR. GLOECKLER: Well, I can tell you're a
11 special educator at the state level. You're asking me
12 tough questions.

13 I think that Sharon Vaughn said it well. The
14 real issue is, what kind of instruction do you need to
15 provide to help children learn? And if it takes a small
16 group, so be it. And it doesn't necessarily have to be
17 removed from other children, but it might be for some
18 time.

19 I mean, I think that's the way we have to look
20 at those issues. I emphasize LRE as compared to
21 inclusion, which are two different issues.

22 DR. GILL: Exactly.

1 MR. GLOECKLER: LRE to me is fundamental to the
2 statute. Inclusion is a philosophy that's somewhat
3 different than least restrictive environment.

4 I think there are many, many kids who, as long
5 as the service can be provided and the supports in the
6 general education building and classroom, there is no
7 justification for not doing it.

8 And there are some kids that you can show
9 benefit from specialized instruction. There are very few
10 kids who benefit from specialized places. And sometimes
11 you have to remove children, but it should be for as
12 little time as possible.

13 Let me tell you one thing I didn't mention to
14 any of you. As the Voc Rehab in our state -- and my
15 background is in special education, but I was given
16 responsibility for Voc Rehab a number of years ago, and I
17 learned a tremendous amount from that responsibility.

18 I'm also responsible for Independent Living, so
19 I got to spend a lot of time with people with disabilities
20 who are adults.

21 And what struck me was that they were
22 struggling around these issues: getting not just a job,

1 but what they call a real job, a meaningful job; being
2 successful in post-secondary education, not just being
3 able to get in, but to be able to complete; all of the
4 things that we all struggle with.

5 And you're not going to get there and be
6 prepared to compete and move on and, you know, pass Civil
7 Service exams or get a promotion if you don't have good
8 skills.

9 And to the extent that we deny children the
10 opportunity to develop those skills, we're doing a
11 tremendous disservice to the adults in our society that
12 have a disability. And the results show, because the
13 unemployment rates are dramatic, the failure rates in
14 post-secondary education, while getting better, are still
15 high.

16 We have to understand that that's their life
17 beyond school. So we have to organize our schools to
18 prepare them for that.

19 And I think sometimes we're caught up in, you
20 know, our job is to move them to the next grade or out of
21 school. It's not to move them out of school, it's to move
22 them into society.

1 And so I think it's very important to have a
2 better balance between academic and social. I think over
3 the years the academic side has been on the low balance,
4 and I think it needs to be brought up, because that's what
5 kids are going to need as adults to be successful. Not
6 all kids can do that, but many, many can who have never
7 had the chance.

8 MR BRANSTAD: Bryan Hassel.

9 DR. HASSEL: In thinking about accountability,
10 one of the major questions is, what kind of consequences
11 would befall a district, say that is performing at a low
12 level or chronically underperforming?

13 Or put another way, what kind of strategies or
14 actions can a State take to induce districts to perform to
15 help chronically low performing districts improve?

16 And so I was wondering if you could reflect on
17 that question a little bit, maybe with a couple of lenses.
18 One is, what kind of actions and strategies has New York
19 used in the case of chronically low performing districts
20 to get increased performance?

21 And secondly, thinking about the Federal
22 oversight of states, what kind of actions and strategies

1 could the Federal Government use with you, with states
2 that are chronically underperforming on certain
3 performance targets?

4 MR. GLOECKLER: I'm going to answer that by
5 reversing the lenses, if I can. Okay?

6 Let me start with the Federal. Right now by
7 and large the Federal strategy is to identify compliance
8 issues, write reports, ask for corrective action plans,
9 and come back at some point in time and see if they were
10 implemented.

11 I would prefer -- and OCEP, by the way, has
12 been responsive to a request I recently made. We have
13 identified our problems. Coming back in three years is
14 not going to identify many new problems, and probably is
15 only going to show some slightly or maybe moderately
16 improved results.

17 Bring your resources into the states. You've
18 helped us identify the problems; help us solve them. Work
19 as a partner, not on reidentifying the same problems, but
20 on bringing the Dan Reschlys and the Sharon Vaughns and
21 the other people around the country who have the
22 wherewithal into the state to deal with the issue and help

1 the state get there.

2 So that would be my view of what the Feds can
3 do. They can begin to form a technical assistance
4 partnership with the states instead of moving on to the
5 next state and writing the next report. And I've asked
6 them to do that, and they're actually responding.

7 I don't mind that. I told you what our
8 problems are. Let's get them resolved.

9 As far as the states are concerned, strategies,
10 let us focus -- let us focus -- on those places that have
11 the problems. Don't require us to be everywhere on
12 everything all the time.

13 If we can get into those districts and bring
14 the resources in, bring the expertise in, almost always we
15 see improved results.

16 The recalcitrant, that almost always requires a
17 change in leadership, because leadership is the
18 fundamental aspect of a good program.

19 And in the schools, for instance, in New York
20 City is a good example. We've had many schools that were
21 in terrible shape that have risen up beyond that. Some,
22 then, have fallen down and have been listed onto that

1 list. But let us focus on those places.

2 And if in the end it takes a restructuring and
3 new leadership, then, that's what we'll have to do.

4 But you're not going to get any of those things
5 done if you're scattered all over the place dealing with
6 all kinds of things that may or may not be as important
7 when you clearly know where your problems are.

8 MR BRANSTAD: Floyd Flake.

9 REV. FLAKE: Thank you, Mr. Commissioner. It's
10 good to see you here.

11 MR. GLOECKLER: Thank you. It's good to see
12 you.

13 REV. FLAKE: And one of the things you
14 mentioned is every student being included in a system of
15 accountability.

16 And then, looking at your maps and seeing that
17 a great -- one of the areas of your greatest discrepancies
18 have to do with the inner city urban communities that are
19 a part of New York State.

20 How much of this is attributable to what some
21 consider to be the fact that many special education
22 teachers are not necessarily those trained for special

1 education but in fact are teachers in the system where
2 they are not functioning extremely well in the general
3 population who then get dropped into special education,
4 which in some ways suggests to me that in some instances
5 they are not that far above where the students are?

6 I mean, their performance rate in the general
7 classroom has been a failure, and now you've put them with
8 young people who are essentially in a category that has
9 greatest need, but then we include them in that
10 accountability. And I support that fully.

11 But the question I am concerned about is, what
12 do you do, what do we consider in terms of making sure
13 that it's not a dumping ground for failing teachers?

14 MR. GLOECKLER: Right. Well, that's a very
15 insightful comment.

16 Part of the resource question has to do with
17 your ability to recruit and retain teachers. And we know
18 in our state, as in every state, that where you have
19 districts surrounding the urban areas that pay higher
20 salaries, the better teachers leave. Oftentimes they will
21 start in the urban setting and move on.

22 We also know that the schools -- not just in

1 special ed, by the way; I don't think that's a special ed
2 phenomenon, I think it's an education phenomenon -- in
3 schools that are performing poorly, you have the least
4 qualified teachers.

5 The State Board of Regents -- I know you know
6 this because of the publicity around it -- passed a policy
7 that no uncertified teacher will be able to be hired in a
8 school under registration review in New York State, and in
9 fact went to court to force the City Board of Ed to
10 implement that requirement, and won in court.

11 So that will not happen anymore, because those
12 schools get short-changed otherwise.

13 And we have to recognize, again, that's known
14 now because we're focusing in on where the performance is
15 not satisfactory. And then you begin to identify, what
16 are the issues that are the reason?

17 And they're almost never about a process.
18 They're about qualified personnel, adequate support
19 services, condition of the building, effective
20 instruction. And those are the things we all should be
21 saying, That's what we should be accountable for. So
22 you're absolutely right.

1 REV. FLAKE: And what do you do to make sure
2 that teachers do not dump -- I mean, that schools are not
3 dumping, that systems are not dumping? That's my feeling,
4 that --

5 MR. GLOECKLER: Well, what I've seen in our
6 state specifically, you have two districts that are
7 responding -- three districts now responding directly to
8 that issues. One is Rochester, with Clifford Janey, who
9 is providing leadership. And he's saying that, I'm not
10 accepting that.

11 In Syracuse, they've moved to a different model
12 of special education where they don't have -- they have
13 very few special classes anymore, and they have team
14 teaching, which is working very well.

15 In New York City, I have to give them credit.
16 They're trying hard to bring in new teachers and to, you
17 know, find alternate routes to teaching and bring in
18 people who are interested in teaching who are bright, and
19 therefore put the persons who are qualified, most
20 qualified, into the hardest schools.

21 Those, by the way, schools are the schools that
22 are often with the largest special ed populations.

1 So I mean, we've got to keep focusing on that.
2 And by the year 2004, as you know, which is going to be an
3 interesting year in our state, no school district in the
4 state will be able to hire an uncertified teacher to teach
5 anywhere. And that will be an interesting point in time
6 when we get there.

7 REV. FLAKE: Can we expect that to, from top to
8 bottom, have some impact as it relates to those in special
9 ed as well as the general population?

10 MR. GLOECKLER: Absolutely.

11 REV. FLAKE: Okay.

12 MR. GLOECKLER: Absolutely. So it takes hard
13 public policy decisions, and it takes people being able to
14 stand up when the pressure comes and say it's the right
15 thing to do.

16 REV. FLAKE: I know you know that I and the
17 Commissioner have had some discussions about what happens
18 at this category in terms of, if these young people do not
19 get some competencies and get diplomas, they wind up in
20 the prison population.

21 MR. GLOECKLER: That's right.

22 REV. FLAKE: And there is a sense, I think,

1 among the African-American general population that this is
2 the first track toward incarceration, because this whole
3 separation has occurred and they've learned how to live
4 outside of the population. So I think that they tie it
5 together.

6 And if we don't solve the problem, we still
7 wind up putting the resources into building of jails and
8 criminal facilities, and I think it's better used trying
9 to solve this problem.

10 MR. GLOECKLER: And I think the data is very
11 clear to support what you just said, it's very clear.

12 REV. FLAKE: Thank you.

13 MR BRANSTAD: Bill Berdine.

14 DR. BERDINE: Larry, thank you. That was an
15 excellent presentation.

16 I have some questions with regard to post-
17 secondary --

18 MR. GLOECKLER: Sure.

19 DR. BERDINE: -- and also training in post-
20 secondary.

21 First, this document, I want to congratulate
22 you on this. In Kentucky this document would take a small

1 horse and cart to carry it around.

2 MR. GLOECKLER: Oh. By the way, I meant to say
3 that they're \$2.

4 (General laughter.)

5 DR. BERDINE: This is just an excellent
6 conservation of resources.

7 MR. GLOECKLER: Thank you.

8 DR. BERDINE: But in New York State, special
9 education teacher certification, is that a stand-alone or
10 is it a dual or a combined certificate?

11 MR. GLOECKLER: It's changing. The Regents --
12 that's why I said this is all very complicated. But they
13 reformed teacher education requirements several years ago.
14 And I hate to say this. I'm not sure which year. It's
15 either 2003 or 2004. I know I'm supposed to know, and I
16 confess I'm not sure.

17 DR. BERDINE: It's just your watch.

18 MR. GLOECKLER: It's one of those two years.
19 The teachers who are going to be qualified to teach
20 special education in New York State will be coming out of
21 universities with credentials based on -- I'm trying to
22 think of the right terminology -- preschool, which is

1 really pre-K up through, I think, Second Grade, early
2 years, which is Second through Sixth, adolescent, which
3 crosses over into high school, and then, secondary.

4 And the special ed teachers will have to be
5 qualified in addition to that to teach an academic subject
6 area if they're in middle or secondary and be able to
7 teach the elementary curriculum if they're going to teach
8 elementary. And the low-incidence population areas still
9 remain specific certificates.

10 DR. BERDINE: So the special ed in the high-
11 incidence certificate areas, a special education teacher
12 will be required to be certified in a regular education
13 area as well as in the special education area?

14 MR. GLOECKLER: If they're going to teach
15 secondary or middle school, they'd have to be qualified to
16 teach a subject -- the word -- rather than certified.

17 DR. BERDINE: But the regular class teacher
18 will not be required to meet the same or equivalent
19 standards for students with disabilities?

20 MR. GLOECKLER: There is added requirements
21 around experience with students with disabilities in the
22 general education preparation, including, I believe,

1 experience in the practicum with kids with disabilities,
2 which wasn't previously a requirement. But it's not quite
3 as substantial as the reverse.

4 DR. BERDINE: Why not?

5 MR. GLOECKLER: The Board of Regents adopted it
6 that way.

7 DR. BERDINE: Well, it seems like it
8 perpetuates the problem we've having.

9 MR. GLOECKLER: Well, I think what's happening,
10 honestly, is that we're seeing more and more districts
11 moving to a team teaching model. And I think it's in
12 response to the fact that you have two teachers who can
13 teach half of, you know, the group, each can teach half.
14 And as they're bringing them together more, you're seeing
15 team teaching.

16 DR. BERDINE: Right. But from a higher
17 education perspective that just exacerbates the difficulty
18 of trying to train somebody to any level of competence
19 when you're not clear about what you're team teacher might
20 have or may not have.

21 And so you paint with a little bit of a broad
22 brush special education teachers not being able to teach

1 core content. You can't expect them to teach core content
2 if it's not required for them to teach core content.

3 And the reverse of that is, you can't expect
4 regular educators, practitioners, to teach kids with
5 disabilities if they are not required by the State, your
6 office or the Regents, whatever --

7 MR. GLOECKLER: The Higher Education Board.

8 DR. BERDINE: -- the Higher Education Board,
9 to do that. So I think, you know, we have to be really
10 careful when we're talking about turning out really
11 qualified teachers if we don't have standards for that.
12 But, you know, that's just one point.

13 MR. GLOECKLER: Can I do just one more?

14 DR. BERDINE: Sure. Yes.

15 MR. GLOECKLER: Because I'm not doing it very
16 well. I think we've moved a long way on the special ed
17 part of that, okay, on the special ed teacher part of it.

18 On the general ed side, there has been a
19 strengthening of the curriculum requirements in general ed
20 and the program approvals for general ed teacher training
21 around learning about working with kids with disabilities
22 as well as others and experiencing that as part of your

1 pre-service, but it's not as strong -- I agree with you.

2 DR. BERDINE: Right. And to leave you on a
3 positive note, one of my areas of chief concern right now
4 in my career is post-secondary students, students with
5 disabilities in post-secondary settings.

6 And on page 32, Goal 3 in your document, you've
7 got some very impressive data. The transition in New York
8 State of kids with disabilities into post-secondary
9 settings is, you have a fairly steady trend upwards?

10 MR. GLOECKLER: Yes. Yes.

11 DR. BERDINE: what do you attribute that to?

12 MR. GLOECKLER: I'm glad you asked, because
13 that's really something near and dear to my heart. By the
14 way, I'll send you a study we've done of post-secondary
15 education and the issue of access for students with
16 disabilities to it. We've done a comprehensive study of
17 that.

18 We have more and more children coming out of
19 schools in our state prepared now to go on to post-
20 secondary education.

21 More and more families are beginning to say,
22 It's a legitimate option for my student, I'm no longer

1 thinking because they're in special ed they couldn't, and
2 more and more kids who are being -- for whatever reason,
3 who are coming out with the belief that they can succeed,
4 and want to.

5 DR. BERDINE: Well, your data are some of the
6 best that I've seen for anyplace in the country. And
7 you're to be congratulated on that, Larry.

8 MR. GLOECKLER: Thank you.

9 DR. BERDINE: Thank you.

10 MR BRANSTAD: Larry, I don't know, you've been
11 on your feet for a long time. Do you want to sit down?

12 MR. GLOECKLER: Sure. I can stand.

13 MR BRANSTAD: You can do that.

14 MR. GLOECKLER: I love standing. I've been
15 sitting, as you have, since this morning. You probably
16 would like to be able to stand up and ask me questions,
17 too. I'm fine. I'm fine.

18 MR BRANSTAD: Okay. Next person on the list is
19 Adela Acosta.

20 MS. ACOSTA: Good afternoon, Larry, and thank
21 you for a wonderful presentation.

22 I'm looking at -- Reverend Flake spoke about

1 the African-American experience in New York City, and I'm
2 looking at the Hispanic experience in New York City. Did
3 I get this right? Hispanics have the largest drop-out
4 rate?

5 MR. GLOECKLER: In the state.

6 MS. ACOSTA: In the state?

7 MR. GLOECKLER: Yes.

8 MS. ACOSTA: And I'm wondering if -- the
9 question is, does ESL have anything to do with that drop-
10 out rate, or can you give me some insight as to what you
11 think might be some causes for the drop-out rate?

12 And then, the secondary question would be, when
13 you do your accommodations for testing, do students get
14 help in language and in second languages?

15 MR. GLOECKLER: The answer to the second
16 question is yes. We have, you know, ESL programs and
17 accommodations around second language, depending on when
18 the child has entered the country and also how long
19 they've been in the education system.

20 As far as, what's the contributor to the higher
21 drop-out rate, I can't speak well to that, I don't think,
22 except that, again, our Hispanic populations in our state

1 are primarily located in urban settings and in poor school
2 districts where the highest drop-out rates are.

3 I think ESL contributes to that to some extent,
4 which may be the reason why there's a higher drop-out rate
5 than African-American kids in the same school districts,
6 although it's just slightly higher. That's the best
7 answer I can give right now.

8 However, let me tell you one thing we're doing,
9 because the legislature and we got together around this
10 data.

11 And we are now -- we have notified all the
12 school districts in the state that have these kinds of
13 issues -- one is drop-out, classification,
14 disproportionality -- and we have required them to submit
15 to us their description as to why this problem is
16 occurring. It's the first time they had to go on record
17 admitting or saying what it is that is causing this.

18 We are then taking that information, and we are
19 putting them in three levels of intervention, in effect.

20 One is just training, and it goes down to very
21 detailed technical assistance and ultimately sanctions if
22 we have to get to it.

1 And we're finding the attention put into these
2 issues is new and dramatic. And I think over time that
3 attention will see improved results. It's hard to say.

4 And we've only started that intervention last
5 school year, so it's too early to say if it will be
6 effective.

7 One of the things that we're finding, too, is
8 that our Office of Civil Rights has known about these
9 issues for a long time and has intervened one district at
10 a time, so to speak.

11 But it really hasn't been able to deal with the
12 systemic issues. So we've got those two things to deal
13 with at the same time.

14 MR BRANSTAD: Kate Wright.

15 DR. WRIGHT: I'd like to make a brief comment,
16 and then a brief question.

17 My comment is to commend you and congratulate
18 you on your presentation --

19 MR. GLOECKLER: Thank you.

20 DR. WRIGHT: -- and that you're fortunate to
21 come from a state that's a pioneer in special education.
22 And you're very fortunate.

1 My question, we're using the broad term,
2 disabilities -- and I'm sure that the other information is
3 somewhere in your literature. But this appears to me --
4 and I may be wrong -- to be geared more to the mildly
5 disabled.

6 I don't see anything -- but I'm sure it's here
7 somewhere -- that addresses the severe and some of the
8 other exceptionalities except learning disabled and MR and
9 BD. Could you speak to that?

10 MR. GLOECKLER: Absolutely. And you're right.
11 It is in there. It's in the thicker ones.

12 I only had so much time, and I felt it was
13 important today to talk about in my view the
14 accountability issues that have been ignored.

15 And I think the group that has been most
16 affected by low expectation and lack of opportunity has
17 been some of the high-incidence kids in our state, some
18 may really not even have a disability.

19 I could do a whole new -- a different one on
20 the severe population, including what I think is an
21 outstanding alternate assessment that we've developed for
22 those students with a --

1 Again, they're going to all be in our
2 accountability system. They're going to be reported just
3 like any other child. They're equally valuable, they're
4 equally important.

5 We're going to for the first time because of
6 that system be able to hold programs for the severely
7 disabled to standards.

8 And by the way, the standards for the severely
9 disabled are based on the standards for all children.
10 They're modified standards, but they're based on the
11 standards for all children.

12 And we're very proud of that. I just didn't
13 add it to this because we don't have enough time.

14 DR. WRIGHT: I just wanted to make that clear,
15 because some of us, you know, might not have known that.

16 MR. GLOECKLER: Okay. Thanks for doing that.

17 MR BRANSTAD: Reid Lyon.

18 DR. LYON: Larry, thanks so much for a
19 wonderful presentation.

20 It boggles my mind that you have a 75-page
21 booklet up there. I'm not sure how many items or
22 questions are on each page that you have to respond to.

1 My question is, do those items, number one,
2 contribute to the quality of education and instruction
3 provided students?

4 And number two, how much instructional time do
5 teachers actually lose because of this kind of activity?

6 But I think the more important thing is, how
7 does it relate to actual learning and achievement in
8 students in your experience?

9 MR. GLOECKLER: I can't -- yes, yes, and no I
10 think was -- no.

11 (General laughter.)

12 MR. GLOECKLER: Some of it contributes to, I
13 think, the instructional process and some of it doesn't.
14 And some of it -- go like this. No.

15 (General laughter.)

16 MR. GLOECKLER: I think a lot of this is the
17 influence of the legal sections of the Department of Ed
18 and not the special education section.

19 And I think it's looking at the law from a very
20 specific legal perspective about whether words are the
21 same and whether words mean the same thing or not, you
22 know, and that type of thing. So that in my view has very

1 little value added to the process.

2 As far as teaching and teachers, I have to say
3 to you -- I talked, by the way, to our State United
4 Teachers group before I came here, because I asked them
5 that question: Do you have any new evidence about what
6 your teachers are saying about special education? And
7 they had done a study.

8 And they said two things. One is, We are
9 spending more time on non-instructional issues. And
10 that's true, because each year or each reauthorization
11 more things come about that are required to be done that
12 are above and beyond the classroom work. Now, some of
13 them are very important, but people don't feel they're all
14 important. Some of them are redundant.

15 And they're affected by the environment now.
16 Many teachers feel that they're intimidated by the
17 environment. They're worried about doing something that
18 will create or will drag them into a litigation or a due
19 process. And I think you must hear that if you walk
20 around the country.

21 And that's a shame, because that's not helping
22 anybody. And I know parents feel the same way, too.

1 They're intimidated by the process.

2 Well, if you have parents who are intimidated
3 and teachers who are intimidated, then we have to think
4 about, you know, is there a better way? Is there a way to
5 create an environment where people feel like they're
6 coming together on issues instead of being pushed apart on
7 issues?

8 Again, it's something I hope you'll give some
9 significant thought to. But I think people who say
10 everything is okay, just implement the law right, have
11 their heads stuck very deep into the sand.

12 DR. LYON: You know, we talked about IQ tests
13 all morning and the lack of much that comes with that.
14 But if we ever wanted a proxy for an IQ test, it would be
15 somebody developing 75-page documents, and it would equate
16 to, you know, some level of low IQ, if you ask me. It
17 just doesn't make any sense.

18 MR. GLOECKLER: That wasn't a question, I hope.
19 Right?

20 DR. LYON: Is it a jobs program for lawyers?
21 Is that what it is?

22 (General laughter.)

1 VOICE: Yes. Lots of lawyers.

2 MR BRANSTAD: Alan Coulter.

3 DR. COULTER: Larry, I think like my fellow
4 Commissioners, I want to commend you on, you know, a very
5 nice presentation that was data oriented.

6 You know, I mean, a lot of times what we listen
7 to are anecdotes about a success story of one child and a
8 failure story maybe with another child, et cetera.

9 I think the value of what you've presented here
10 is really statewide data that talked about thousands and
11 thousands and thousands of children.

12 And I think this morning one of the things that
13 I heard was, in some instances teachers are doing the
14 wrong thing, and children are actually being harmed.

15 So I appreciate the fact that we could sit this
16 afternoon after lunch and look at some more promising
17 results.

18 One of the things that I think I heard in your
19 presentation was that -- and it's been said, I think,
20 several times before -- there are more than 814 required
21 procedural items in the current law, and that in effect
22 those have to be in place for every child 100 percent of

1 the time, 180 days of school plus the extended school
2 year.

3 So I think the point you were making was, if
4 you make compliance so complicated that nobody is in
5 compliance, then you in some respects trivialize, you
6 know, this law and the really important effects that it
7 could have.

8 So I thought I heard you contrasting that 814
9 with just 14 things that you think are the most important
10 and that you've tried to present data to districts to say,
11 These 14 things are really more important than almost
12 anything else.

13 As you've done that, you know -- and I know you
14 come from a place where people are very interested in the
15 application of the law. How have you been able to
16 emphasize that as opposed to getting sort of distracted
17 back to one of those 814 that maybe is not as important?

18 And let me make the question really plain.
19 People have said to me, You know what? The 14 things
20 really aren't enforceable under the law, but the 814
21 things are.

22 How have you made the 14 things enforceable in

1 some sense so that districts really pay attention to that?

2 MR. GLOECKLER: Well, a couple things. If you
3 go to a -- in our state the body that is responsible for
4 education in effect is the local Board of Education.

5 If you go to the local Board of Education and
6 you show them that their students aren't achieving, that
7 they're violating least restrictive environment concept in
8 a way that they can understand, that their kids are
9 dropping out, they have poor attendance, the reaction
10 again, except maybe in a few isolated situations, is going
11 to be, Oh, my God, we've got to do something about that.

12 If I hand them a report that says, Out of 814
13 procedures, you're in compliance with 532 and you were out
14 of compliance with 206 the day we were there, they're
15 going to say, Thank you very much, it was a pleasure
16 meeting you.

17 Because they're not going to know what I'm
18 talking about, and they're not going to really care too
19 much, because I've never translated it into, So what? And
20 I think that what I'm trying to say is there is a, So
21 what.

22 Now, of those 814 things, some of them are

1 very, very critical to the so whats, and it's our
2 responsibility -- and I glossed over it a little bit --
3 but we do focus on them, too. We do it a different way
4 than we used to, but they're crucial.

5 And I have to say that over and over again,
6 because people don't hear that. They hear, Oh, you only
7 care about 14 things, you don't care about anything else.
8 No. We care about those things which contribute to the
9 most important results.

10 But we have to translate, I think the whole
11 special ed community, the so what part of all this, that
12 it's because as a result of you doing this this student is
13 going to be more likely to become an independent adult, go
14 on to post-secondary education, get a decent job, or
15 having severe disabilities be able to function as
16 independently as possible in the community and have a high
17 quality life.

18 So in our state I'm not fully successful in
19 getting people to agree to that. But I do believe that
20 most people have said, because we give the information out
21 in very clear ways -- you know, it isn't 850 pages of
22 data, although I do have one of those, too -- it's about,

1 you know, trying to connect the dots, that this will lead
2 to this, and this is what everybody has agreed to is
3 important.

4 And those six goals were developed with
5 stakeholder involvement. They weren't made up in the
6 Education Department.

7 So it's push and pull and constant, you know,
8 shove a little bit. But generally people are focused in
9 New York on the educational results now.

10 DR. COULTER: The other thing that I want to
11 make certain that I understood from what you said, I think
12 you talked about that there are wide differences I think
13 within New York as it relates to districts and their
14 performance on those 14 indicators.

15 MR. GLOECKLER: Yes.

16 DR. COULTER: I would assume that your
17 experience also is that there are also differences within
18 districts. In other words, there are some schools
19 probably in a district that was low performing that was
20 doing very, very well, as well as schools that weren't
21 doing at all well.

22 So that heterogeneity that you saw within the

1 state also exists probably within many districts. Would
2 that be true?

3 MR. GLOECKLER: Well, the man sitting next to
4 you can answer that question better than I.

5 But the truth is, let's take New York City.
6 New York City as one school district, besides the fact
7 it's also a set of community districts, has in my view
8 some of the finest educational programs in the world and
9 also probably some of the worst.

10 And within community districts there are
11 outstanding schools with the same demographics as a school
12 that's doing terribly poorly.

13 So, yes. I think that's true. And I think you
14 see issues of leadership, qualified staff, and usually
15 somebody and some people in there who are just really good
16 at instruction making a difference in one place and not
17 another.

18 DR. COULTER: What do you do to reward those
19 places that are doing very, very well?

20 MR. GLOECKLER: The accountability system has a
21 new reward mechanism, but it hasn't really been in place
22 long enough to be able to say it's making a difference

1 yet. But it is recognition and status for districts
2 that -- schools that are both high achievers as well as
3 schools that are improving. I think those are two
4 different issues, but two important measurements.

5 And you know, we're trying to figure out, other
6 than, you know, recognition from the State, other ways to
7 recognize them.

8 And I think, quite frankly, it would be nice to
9 give them other kinds of supports when they're showing
10 improvements to help them keep that up.

11 MR BRANSTAD: David Gordon. And I think this
12 will be the last question.

13 MR. GORDON: Thank you again for your
14 presentation.

15 MR. GLOECKLER: Thank you.

16 MR. GORDON: It's heartening to see such
17 outstanding leadership in my former home state.

18 My --

19 MR. GLOECKLER: I saw you got a Regents
20 diploma.

21 MR. GORDON: I did. I'm glad I took it when I
22 did. It's more difficult now. I've seen the new tests.

1 (General laughter.)

2 MR. GLOECKLER: I brought one with me if you
3 want to take another one.

4 MR. GORDON: I have seen them.

5 Anyway, my question is this. Throughout the
6 day it's become clear that we need to make sure the
7 general education program, Title I, works closely with the
8 special ed programs.

9 MR. GLOECKLER: Absolutely.

10 MR. GORDON: What in an accountability system
11 do you suspect would better prompt that kind of
12 collaboration?

13 MR. GLOECKLER: Well, one is in reporting of
14 data, which I find at least in New York State really gets
15 people's attention, and not necessarily in a negative way,
16 either. People are sometimes excited about the data.

17 But not -- we try to report the data -- it's
18 kind of like a principle -- in the aggregate and in the
19 disaggregate. And I think that linking the databases
20 together is critical and not having them seen as two
21 totally separate databases. And then, the reporting about
22 the results really should be done together so people can

1 contrast.

2 What you're going to find almost always is that
3 the districts that are doing well with one population are
4 doing well with all populations and vice versa.

5 But I think don't have competing or duplicative
6 or, you know, non-value added add-on accountability
7 measures between the two laws. I think they need to be
8 connected.

9 And one last -- could I -- I have one thing to
10 say.

11 MR BRANSTAD: Sure. Absolutely.

12 MR. GLOECKLER: I just want to make sure -- we
13 have loads and loads of problems and things that we have
14 not resolved, and I think you saw some of them. And I
15 want to make sure you understand that.

16 This is not about, we have everything resolved
17 and we're great. It's about, at least we know what we
18 want to accomplish, and we're trying to move in that
19 direction, and we've got some good successes and some not-
20 so-good successes, and we're just going to keep at it.

21 So again, thank you very much.

22 MR BRANSTAD: Larry, thank you.

1 (Applause.)

2 MR BRANSTAD: You might think of a career in
3 politics when you get done. You're very good on your
4 feet. You did a great job of spelling out the goals and
5 answering the questions.

6 MR. GLOECKLER: Thank you.

7 MR BRANSTAD: We're going to take a break, and
8 we'll reconvene about five after 4:00.

9 (Whereupon, a short recess was taken.)

10 MR BRANSTAD: Okay. Todd is going to introduce
11 a new staff member, I think, to begin with.

12 MR. JONES: Hi, folks. We had a chance last
13 time to introduce you to all of our staff, which was true
14 at the time, but we have a new staff member since that
15 time. She is our press secretary. Her name is Kathleen
16 Blomquist. She has a background in public affairs and
17 media relations.

18 Prior to joining us she worked as Director of
19 Advance for the Shundler for Governor Campaign in New
20 Jersey, where she was responsible for overseeing the
21 coordination of the campaign's daily media events and
22 logistics.

1 By the way, she is the woman standing next to
2 Troy over there. Wave.

3 Prior to that she served as lead press advance
4 rep for the Bush/Cheney 2000 Campaign, where she was
5 charged with working with the media in the field and
6 putting together campaign media events throughout the
7 country.

8 Prior to that she was with -- I won't even try
9 and pronounce it properly -- but --

10 MS. BLOMQUIST: Burson & Marsteller.

11 MR. JONES: Thank you. -- which is a PR firm
12 in New York that has a public affairs practice.

13 She has served in the U.S. Army's civilian side
14 working as a writer and spokesperson for the Army Public
15 Affairs Office.

16 And prior to that she was with National Review,
17 her first job from college, as an editorial associate
18 assisting in research, proofreading, and publicity.

19 She is a graduate of the College of Charleston,
20 South Carolina as a media communications major.

21 So, Kat, welcome to staff, and glad you're
22 here.

1 DR. PASTERNAK: And while we're doing this,
2 may I introduce our new Director of the Office of Special
3 Education --

4 MR BRANSTAD: Please do, Bob.

5 DR. PASTERNAK: -- who has been here, I
6 believe, till now, till her --

7 VOICE: She just stepped outside.

8 DR. PASTERNAK: -- she felt her big moment of
9 introduction.

10 (General laughter.)

11 MR BRANSTAD: There she is.

12 DR. PASTERNAK: So I would like you to please
13 join me in welcoming the newest member of our team at
14 OCEP, the Director of the Office of Special Education
15 Programs, Stephanie Lee.

16 (Applause.)

17 MR BRANSTAD: Welcome to both Stephanie and to
18 Kat.

19 I want to compliment -- I was up at a little
20 bit before 6:00 this morning, and Kat accompanied me to
21 Fox Television to do a little interview about our purpose
22 for being here in Houston today, and she did a great job

1 of briefing me and getting me ready for that, even though
2 I had only had about four hours of sleep. So thank you
3 very much.

4 Now for our panel this afternoon I have the
5 pleasure of introducing Jim Comstock-Galagan. He's an
6 attorney for the Southern Disability Law Center, a non-
7 profit corporation funded to protect and advance the legal
8 rights of people with disabilities throughout the South.

9 Comstock-Galagan served as Executive Director
10 for Advocacy, Incorporated, the Protection and Advocacy
11 System for Texas, from 1989 to 2001. During the 1990s,
12 Advocacy, Inc. launched three major statewide disability
13 rights campaigns.

14 Comstock-Galagan published extensively and made
15 many major presentations on civil rights and education
16 issues for people with disabilities. He also co-authored
17 Louisiana's Civil Rights Act for Persons with
18 Disabilities.

19 Comstock-Galagan has served on the State Bar of
20 Texas Special Committees on the Future of Legal Services
21 for the Poor in Texas; State Bar of Texas Legal Services
22 to the Poor in Civil Matters Committee; the Disability

1 Policy Consortium; the National Association of Protection
2 and Advocacy Systems; Texas Planning Council on
3 Developmental Disabilities; Louisiana State Advisory
4 Council on Special Education; and the New Orleans
5 Independent Living Center Board of Directors.

6 Comstock-Galagan received the State Bar of
7 Texas President's Award in 1998 and the ADAPT of Texas
8 Disability Rights Activists Award in 1995, the National
9 Association of School Psychologists Special Recognition
10 Award in 1985, and the Texas Fiesta Educativa Special
11 Recognition Award in 1992.

12 I'm pleased to present James Comstock-Galagan.

13 MR. COMSTOCK-GALAGAN: Thank you very much,
14 Governor. I want to say at the outset what a real honor
15 it is for me to be here today.

16 Yes. I am a lawyer. That is true.

17 (General laughter.)

18 MR. COMSTOCK-GALAGAN: But let me start with
19 what else I am. I am married to a teacher.

20 VOICE: Yea.

21 MR. COMSTOCK-GALAGAN: So there we go. I am
22 married to a teacher. My wife, Charleen, was educated at

1 Vanderbilt Peabody, where Dr. Reschly is from, years ago
2 in the '70s, and her specialty was with students with
3 emotional and mental health issues.

4 She also over the years, though, has become a
5 reading specialist and has become a specialist in
6 classroom management issues, which are very important to
7 children with disabilities.

8 She spent most of the '90s running an inclusion
9 project in Texas, working with school districts throughout
10 the State of Texas on how to effectively include students
11 with disabilities in regular education settings.

12 My intervention program that I have been a
13 student in has run for the last 16 years, since I have
14 been married.

15 I have learned a great deal about what really
16 matters in education from the perspective of a teacher.
17 And I have tried to incorporate that, I must say, each and
18 every day into the work I do as a lawyer.

19 So in many respects I feel very blessed to be
20 able to have as a bonus in my marriage the teaching
21 discipline as a part of my everyday life and as a part of
22 my everyday work.

1 So let me say that I hope to give some voice to
2 the issues that parents and activists, advocates care
3 about. But really the issues that we care about are not
4 divorced from the issues that teachers and administrators
5 and governmental officials care about.

6 What do people really care about in this
7 country, whether you are a student with a disability,
8 you're a parent with a disability, you're a teacher,
9 you're an administrator, you're a governmental official?
10 We care about good educational practices. That's what we
11 care about, good educational practices.

12 Notice I did not say we care about a lot of
13 procedures. We care about good educational practices and
14 outcomes.

15 I know Gene and I have known each other since
16 I've worked in Texas for 12 years. And I'm very honored
17 to be on this panel with Gene today. You know, Gene and I
18 occasionally have had some differences, but we overall
19 have always wanted the same things, and it's just a
20 question of, how do we get there? And that's where our
21 differences sometimes are.

22 We want the same things. We want good

1 educational services for all kids, not just for kids with
2 disabilities, for all kids. And so sometimes we may
3 disagree on how to get there, but we're struggling, I
4 think Gene and I both have struggled to try to get to that
5 goal.

6 So for me to be on this panel, I am very happy
7 about it, and I wanted to say that publicly.

8 I want to talk to you a little bit today about
9 the historic monitoring systems in this country and how
10 they've been process based and haven't really looked at
11 progress and outcomes for students.

12 And how it's time to move from process forms of
13 monitoring, which were mentioned briefly in the previous
14 presentation, to what I consider to be real substantive
15 focused monitoring on issues that count, and that is
16 student progress and outcomes.

17 You know, historically under the Individuals
18 with Disabilities Education Act state education agencies
19 are responsible for ensuring the provision of what's the
20 fundamental tenet of IDEA, and that is a free, appropriate
21 education to all students with disabilities within a
22 state.

1 One of the most important activities that state
2 agencies have historically engaged in is the monitoring
3 activity, the monitoring of local districts.

4 But you know, we're here today, 27 years after
5 the passage of IDEA, and the provision of a free
6 appropriate public education to all students with
7 disabilities remains an elusive, unfulfilled requirement.

8 You need merely check drop-out rates,
9 graduation rates, LRE rates, other outcome indicators to
10 know that that's true, or you need simply go into any room
11 that is filled mostly with parents and students with
12 disabilities. That is the answer you will receive.

13 I'm not here to cast dispersions. I'm really
14 not. I'm here to say that we can do better, and that's
15 something I think we strive for in our individual lives,
16 and it's certainly something we want from our schools.

17 Today in my view -- and I've been in this
18 business for over 20 years, 24 years, representing parents
19 and children, children with disabilities and their
20 families.

21 I think the simple immutable reality is, unless
22 we move to a dramatically different form of state

1 education monitoring, this goal of a free appropriate
2 public education for children is going to remain elusive.

3 And I will talk soon about the impact of
4 overemphasizing process compared to real results.

5 Now, most people agree that the foundation of
6 an effective monitoring system is information and data.
7 We just saw the importance of data over the last hour.
8 The system in New York is fundamentally rooted in data
9 that is projected out publicly and reflects how each
10 district in the state is doing on a variety of different
11 indicators.

12 Monitoring systems, in my view, must generate
13 this type of information and data in order to accomplish
14 two purposes.

15 If we're going to monitor -- and we do need to
16 monitor -- they need to be able to generate data that
17 determines whether local education agencies are providing
18 a free appropriate public education, and they need to
19 generate data and information that will support technical
20 assistance, training, and if necessary enforcement
21 activities directed towards obtaining compliance on real
22 issues.

1 The historical model that we've seen in
2 monitoring has been that a lot of information gets
3 collected at a state level. Some of it's important,
4 frankly, some it is not so important.

5 Little of this information, however, has been
6 analyzed or used strategically historically in monitoring
7 by state education agencies. And little if any of this
8 information is related to student progress and student
9 outcomes.

10 In fact, information has been collected
11 reflecting serious local performance and compliance
12 issues, yet has produced few changes in LEA practices.

13 Where information gets collected, oftentimes
14 the information housed in a state education agency -- and
15 I don't say this disparagingly -- reflects serious
16 problems. But that information is not translated into how
17 monitoring is conducted in a district.

18 As we noted, LRE is a classic example in this
19 country. There has been tons of data on LRE, yet the way
20 that monitoring has been conducted is it's been conducted
21 the same in every district regardless of what their LRE
22 data is.

1 Overidentification: It doesn't matter what
2 your data is, everybody is going to be treated the same in
3 how they get monitored in overidentification.

4 Transition services, critical to kids coming
5 out of school with skills that can help them work, which
6 is what we all hope our education leads to, the ability to
7 work. It doesn't matter what your transition service
8 rates are, you're going to get the same form of monitoring
9 that everyone else gets.

10 Drop-out and graduation rates haven't really
11 factored into how districts are monitored. What have we
12 monitored on? We heard it from Mr. Gloeckler before. All
13 these legal, all these regulations that don't -- nowhere
14 within them do we look at, what are the drop-out rates,
15 what are the graduation rates, and what are the least
16 restrictive environment rates?

17 And I will say this. Fundamental to 95 percent
18 of all parents in this country is the issue of LRE. And
19 the reason it is fundamental is because we know what
20 happens to kids when they end up in pull-out programs. We
21 heard it over and over and over today.

22 You know, when you hear that performance in

1 pull-out programs is less than lackluster, would you want
2 your children there? Think about it. Would you want your
3 children there?

4 LRE is fundamental. LRE is an issue that is
5 related to progress and outcomes, because the less you
6 have of it, I guarantee you, the less progress and the
7 less outcomes will be manifested in your life as a
8 student. The data reflects that. It is fundamentally
9 related to student progress and student outcomes.

10 Now, all this data gets collected, but
11 everybody gets treated exactly the same. So what have we
12 seen? And again, it's the model that was in place. We're
13 all creatures of habit.

14 I'm not being critical here, but what we've
15 seen is repetitive collection of all this information,
16 three decades of monitoring -- decades of monitoring --
17 and we see very few significant changes in the outcome
18 data for students.

19 And we see very few significant changes even in
20 like LRE data, transition data, the kinds of data that I
21 talked about, overidentification data. We see very few
22 changes over time.

1 We don't have to wonder what the outcome data
2 looks like when the foundations of progress and outcome
3 are not changing. We don't have to wonder. This is not
4 rocket science. If we don't change the fundamentals on
5 which that house is built, that house is not going to
6 stand. These are fundamental issues.

7 The disconcerting fact is that traditional
8 state education monitoring systems have repeatedly found
9 local districts in violation of IDEA's LRE requirement,
10 transition -- I'm not talking about one procedural issue
11 here -- transition, overidentification, and the list goes
12 on and on about substantive issues.

13 And yet this has spanned numerous years these
14 violations are found, and yet they go uncorrected. They
15 go uncorrected. And I don't say that disparagingly,
16 either. These are the facts for right now.

17 States are changing. Texas is one. A number
18 of states are changing. Obviously New York is another,
19 looking at focused monitoring.

20 There are two Achilles heels to the traditional
21 model of monitoring, which is called cyclical monitoring.
22 The first -- it's bad enough to have one Achilles tendon,

1 you know, that's torn. Imagine having both of your
2 Achilles tendons torn. Well, this system has two Achilles
3 heels.

4 The first is, long-term patterns of
5 noncompliance are commonplace. Second, little or no
6 attention is paid to student progress or outcomes in
7 monitoring. Those are two pretty big Achilles heels.

8 Since IDEA was enacted, SEAs have almost
9 invariably, as I said, used a cyclical monitoring system
10 where everybody gets treated the same. It doesn't matter
11 what your LRE rates are, transition rates are, you're
12 going to get what I commonly refer to as the big visit.
13 You're going to get the big visit.

14 The State Department somewhere in some states
15 is going to come out every five to seven years and spend a
16 week in your district, or maybe longer than that, a week-
17 and-a-half. And they're going to essentially, you know,
18 come in and look at everything in IDEA now, look at
19 everything.

20 I can tell you that I have a 17-year-old
21 daughter. If she is doing well in five out of her six
22 subjects, I'm not going to get in there and try to figure

1 out why the Hell that's happening. I'm going to be very
2 happy and say, Keep up that, and, Can we continue to
3 support you in that? But I'm not going to investigate
4 that.

5 But I am going to investigate, if she's not
6 doing very well in one of six subjects, what's going on
7 here and how can we help?

8 But to say I'm going to go in and do a thorough
9 examination of my daughter's educational performance when
10 she's getting five A's and a D, that's a waste. I'm not
11 focusing on that. This is common sense.

12 We've got to stop going into districts that are
13 doing extremely well in all kinds of areas and saying,
14 We're coming for seven to ten days. We don't care how
15 you're doing, we're going to look at everything. That
16 ain't right, and that's not common sense.

17 That's not how we operate in our homes, it's
18 not how we operate with our children, it should not be how
19 governmental entities operate. I don't say that
20 disparagingly, but historically that's what's happened.

21 We should look at districts, we have their
22 data, and if we see problems, as Mr. Gloeckler said, we

1 should focus in where there are problems.

2 Where they are doing well, we should tell them
3 right off the bat, We're not going to look at that.
4 You're doing well here. You are to be complimented.
5 We're going to use your people for technical assistance in
6 those areas, and we're going to highlight your performance
7 in those areas. But we're not going to come in and look
8 at 240 legal regulations. We're not going to do that.

9 The other part about this big visit is that it
10 only happens once every five to seven years. And so
11 districts know that, once the State Department leaves,
12 they're not coming back for five to seven years. That's
13 like -- I'm sorry -- a free pass.

14 You know, that's like me saying to my daughter,
15 Well, now that I've looked at your grades this semester in
16 Seventh Grade, I don't care what kind of grades you get
17 until you're a senior in high school. Are we kidding?
18 Are we really kidding?

19 Who has said that to their kid, You have good
20 grades in Seventh Grade. I don't care what your grades
21 are for five years. I'm not looking, I don't pay
22 attention, I don't care. That's what happens in

1 monitoring. We go away, nobody looks, nobody tracks any
2 data.

3 Report cards, that's what Mr. Gloeckler was
4 talking about, report cards, data on districts, tracking
5 that data. We look at it constantly.

6 Monitoring is not a big visit every five to
7 seven years. Focus monitoring says we look at data every
8 year.

9 We track every district's data on key
10 indicators every year. And where you're doing great, we
11 compliment, commend you, we triumph your successes, we
12 give you publicity. And where you're not doing well, we
13 may be in your district every year for five years.

14 But you know what? If you're doing well under
15 a model that I'm going to talk about in a second, you may
16 not see us for ten years, because we are going to channel
17 our monitoring resources to where the greatest need is.
18 And that makes sense.

19 That isn't about just procedures and process.
20 Yes. There's a role for that, and I'll talk about that in
21 a second.

22 But it's fundamentally about, how are districts

1 performing, and let's recognize where districts need help,
2 and let's recognize where districts can help others
3 instead of saying, As far as we're concerned, you're all
4 the same. I mean, really, that doesn't work. The
5 resources are too limited.

6 So one other thing I will mention is
7 enforcement activities. This is a very peculiar thing.

8 Now, I'm a lawyer, so I'm involved in
9 enforcement activities. You know, and people say, Think
10 where the civil rights movement would be -- lawyers played
11 a small role in the civil rights movement. They weren't
12 out in the streets putting their life on the line in this
13 country during the civil rights era. But think what role
14 they did play in that era. It was an important role.

15 So I'm a believer that enforcement is a
16 critical component of any monitoring system.

17 Here's what I think happens. I don't think
18 enforcement activities are embraced by state education
19 agencies. I don't say that derogatorily. I think it's a
20 natural reflection of state education agencies.

21 Let's be clear. State education agencies are
22 made up of educators, people not trained to be the state

1 police.

2 But really under IDEA the bottom line is, at
3 some point the state education agency may have to function
4 as the state police. That is very difficult for people
5 who believe in education and in improving people's
6 practices, that at some point you might have to actually
7 put on the hat of the police.

8 So historically, although I think there have
9 needed to be enforcement actions, we have not seen very
10 many. Findings of noncompliance, in my experience, are
11 routinely converted into training agendas that really
12 produce little change over time in the key elements that I
13 talked about before. There's really no consequences,
14 none.

15 Again, I don't think this is rocket science. I
16 said last night, If my daughter is in a decent school and
17 she gets a 60, which is a failing grade, what are my
18 expectations for her? Let me see what support I can give
19 you. My wife and I, what can we do to help you? But your
20 grade is coming up. Your grade is coming up. Failing is
21 not acceptable.

22 In our schools today, what are the consequences

1 for failing schools? Well, kids fail in those schools.

2 Most of the consequences are borne by children.

3 You know, if your child and you fail, and you
4 fail a number of courses, you get held back. But if you
5 are running a school that is failing children on a long-
6 term basis, do you think the principal's certification is
7 suspended? Do we think that happens? All of the burdens
8 of what's going on in that school fall on the children.

9 Part of enforcement is that there is a price to
10 pay for failing. You know, if you're a student, you get
11 held back, you can't advance.

12 If you're in administration and you're running
13 failing schools, there should be a price there. This may
14 sound radical. I believe in suspending certifications of
15 principals and administrators in failing schools. There
16 has to be a price. It shouldn't just be always the
17 children who pay the price.

18 And trust me, if you tell principals and
19 administrators there is a price for them failing, you'll
20 get their attention. There's never a consequence for kids
21 failing. Guess what? I hate to say it, but our way of
22 living as human beings is, that becomes over time a way of

1 life. That's unacceptable, unacceptable.

2 And if there is a price for failing for
3 students, then there should be a price for failing as
4 administrators and running failing schools. Let's just
5 say we're going to treat people equitably.

6 And it's not good enough to say for me, Just
7 move the kids to other schools. It's not as easy as that
8 for poor parents. They want their schools to be better.

9 And so we believe in what's known as a focused
10 monitoring system.

11 And I'm going to stop here in about five
12 minutes.

13 But we believe in what's known as focused
14 monitoring, where you focus your resources.

15 We believe that a monitoring system should
16 produce fewer students dropping out; more students who are
17 with disabilities graduating; increased student
18 performance on achievement tests and other statewide
19 instruments, statewide assessments.

20 More students in least restrictive environments
21 where they'll have more access to the general curriculum,
22 where they'll have more chance to graduate and not drop

1 out, they'll have more of an opportunity to pass statewide
2 assessment exams.

3 You know, these are measurable expectations for
4 all other students, good educational practices. They
5 should be the same for students with disabilities, and
6 they should guide our monitoring systems.

7 Now, I think there are four components -- and
8 that's really not what I think. I've talked to a lot of
9 people, I've worked with a lot of people in this area.
10 They think there are four components to a success to move
11 away from process monitoring and move to substantive
12 monitoring in a focused manner.

13 The first is information and data analysis and
14 use. You know, monitoring efforts should be focused based
15 upon data, as we saw in the previous presentation.

16 New York is going to focus their attentions
17 based upon the data that they have. It's not based upon
18 going out and looking at everything and see what we
19 uncover. What do we already know before we go out there?
20 So data should drive the system.

21 The second tier should be what's called
22 validation visits. And Mr. Gloeckler talked about

1 those -- Dr. Gloeckler. I'm sorry.

2 You also want to incorporate going out and
3 validating people's data just so there's no fudging going
4 on.

5 Do I think there's going to be much of that?
6 Hardly any. But it's important to let people know that
7 there is a random validation system in place to validate
8 people's data since it's data that's going to drive
9 whether we're out to your district every year or whether
10 we don't see you in ten years.

11 Third, focused compliance monitoring. I've
12 already said, focus limited monitoring resources where
13 they are most needed, and that is in areas where there are
14 significant problems.

15 And then, enforcement. Again, I talked about
16 this in the paper I've presented. I think there should be
17 graduated sanctions. I would never propose ever
18 terminating some administrator's certification as a matter
19 of first recourse. I would suggest it as a matter of last
20 resort, however, and that it is a matter that is in the
21 course of graduated enforcement options.

22 But enforcement cannot be in a vacuum.

1 Everything I've heard today I so agree with. You've got
2 to provide technical assistance, training, effective
3 technical assistance, effective training, effective
4 supports at a state level to districts.

5 The last thing I'll say before I talk about how
6 this might work is, we need to integrate into this data
7 collection and monitoring what's called in special
8 education the comprehensive system of personal
9 development, CSPD.

10 In most states, the comprehensive system of
11 personal development, when we look at our personnel needs
12 for teachers and other professionals and for special
13 education in our schools, has been divorced from the very
14 data that we have on what's going on in the state.

15 It is divorced from LRE data, it is divorced
16 from the provision of assistive technologies, it is
17 divorced from overidentification. Now, I'm not saying in
18 every state, but in many states we need to blend that into
19 our monitoring systems.

20 I will say that most states I think today feel
21 that the cyclical monitoring system either is a thing of
22 the past, as in Texas, Louisiana, New York, a number of

1 states, or will soon be a thing of the past. Focused
2 monitoring I think is the direction that we need to go.

3 Let me say one last thing. Under this model
4 that we have proposed -- and we brought experts together
5 when I was in Texas to create a monitoring system that
6 worked. This isn't my system, this is a system created by
7 experts.

8 They say that there are four key indicators for
9 monitoring. You have a benchmark, which I'll talk about
10 in a second; you have a statewide average; you have an at-
11 risk trigger; and you have what's called a focused
12 monitoring trigger.

13 Now, the benchmark is a goal in performance.
14 If we looked at New York, the graduation rates were close
15 to 47 percent today. You would always want a benchmark in
16 this area for students with disabilities as a goal to
17 continue to improve, because we can do better. We can do
18 better. We're doing better in a number of states. We can
19 continue to.

20 So you would have a benchmark, let's say 52
21 percent, or I believe they said they were going to
22 increase by 4 percent. They were going to run from 47 to

1 51. Their benchmark is 51. Their statewide average is 47
2 percent, to just use New York as an example of graduation
3 rates.

4 There would be an at-risk trigger under this
5 model below 47 percent. Let's say it would probably run
6 at -- does somebody have a calculator? Does anybody have
7 a calculator on them? I'm going to try to use Larry
8 Gloeckler's numbers. What is 70 percent of 47? Does
9 anybody know that? A little math quiz.

10 VOICE: 33.

11 MR. COMSTOCK-GALAGAN: 33. The at-risk
12 category or at-risk trigger would run 33 to 47 percent.
13 Any district whose graduation rates are at 33 to 47
14 percent would be considered at risk under the model that
15 has been proposed by people we've worked with.

16 Local education agencies would work with the
17 state education agency, do a self-study, look at their
18 district improvement plan, look at their training
19 technical assistance needs to get their graduation rates
20 up to 47 percent over time.

21 So we're going to say to districts, If you're
22 below -- 33 to 46, you've got to get up. Anybody below

1 33 percent, that's below 70 percent. That's for my
2 daughter considered a failing grade, below 70 percent.

3 If you're below 70 percent of the statewide
4 average, then you come into what's called the focused
5 monitoring trigger.

6 We will go in and look at that specific issue
7 on graduation rates and try to figure out why, you know,
8 you're only two-thirds, or maybe you're only 30 percent,
9 you may be at 15 percent in graduation. Why is the
10 district only at 15 percent of the rate?

11 This model requires every district below 33
12 percent to get to 33 percent as part of their corrective
13 action. They have to at least get to the at-risk status.

14 There is no debate about the 12 various reasons
15 why we're at 15 percent on graduation rates. And why is
16 there no debate? And I know this sounds really
17 simplistic. Do you think I would listen to the 12 reasons
18 why my daughter got a 60 on her tests and failed?

19 It's like, Hey, it's not about excuses. It's
20 about, what can we do to help you to get to 80 percent so
21 you can pass, Meagan, with a B. And it's about, how do we
22 get districts below that 33 percent?

1 We're not debating why you're at 15 or 20
2 percent. We're saying, We're going to work with you, and
3 you have to get to 33.

4 Now, what happens when every district in a
5 state below 33 percent gets to 33 percent? What happens
6 to your graduation rate? It goes way up, because if
7 you're bringing in a state 50 districts up to 33 percent,
8 then your graduation average of 47 has just jumped
9 dramatically.

10 So what we're saying is that you constantly
11 come back in, and you reset the benchmarks, reset the
12 statewide average like every three years, give people a
13 reasonable period of time and support them. We know what
14 needs to be done to bring districts up.

15 What we need to quit saying is, in my belief,
16 is that failing performance in these areas for students
17 with disabilities is okay.

18 You know, we're not asking districts to go to
19 100 percent. We're saying, Get to the statewide -- get to
20 the at-risk trigger, which is 33 percent, and then over
21 time get up to the statewide average.

22 It will lead -- the beauty of this system is it

1 guarantees increased performance, guarantees. Because if
2 you can't get up -- if you're in the focused monitoring
3 group and you can't get up to 33 percent, trust me, there
4 are graduated -- and I listed them in the paper --
5 graduated enforcement activities that are taken.

6 As you go down through that list, districts
7 will get up to 33 percent. And trust me, I'm only talking
8 about districts with the greatest need.

9 If you've got a 47 percent average, a lot of
10 districts are way above that. My compliments. Let's
11 highlight what they're doing. A lot of districts even at
12 the state average, let's commend them. And then let's
13 focus where the real needs are.

14 So this is explained a little bit more in-depth
15 in the paper I wrote.

16 I'm finished. I certainly appreciate the
17 opportunity to be here today.

18 MR BRANSTAD: Thank you.

19 MR. COMSTOCK-GALAGAN: And I believe we have
20 questions afterwards.

21 MR BRANSTAD: Right. I want to introduce Gene
22 Lenz just briefly.

1 Gene Lenz has worked for the Texas Education
2 Agency since 1985 and currently serves as Senior Director
3 for Special Education in the Division of Special
4 Education.

5 In the positions that he has held with the
6 agency, Lenz coordinated the special education rule-making
7 process, served as a legislative resource on special
8 education issues, collaborated with legal services,
9 services for the deaf, government relations, interagency
10 coordination, policy/planning, communications, and
11 accountability pertaining to the implementation of special
12 education.

13 Lenz was a special education teacher in
14 Garland, Texas prior to his work with the Texas Education
15 Agency. Along with setting goals for the students, he
16 helped to develop curriculum material and had the
17 opportunity to teach vocational classes, recreation, and
18 physical education.

19 Lenz attended East Texas State University for
20 his undergraduate and graduate education. He received a
21 Masters of Education degree in Special Education and a
22 Bachelor of Science degree with a double major in Special

1 Education and Student Personnel and Guidance.

2 I'm pleased to introduce Gene Lenz. Gene.

3 MR. LENZ: Thank you, Governor.

4 Commission members, Assistant Secretary
5 Pasternack, OCEP Director Lee, Executive Director Jones, I
6 want to thank you for inviting me to visit with you this
7 afternoon.

8 I guess I want to welcome this Commission to
9 the State of Texas -- I mean, for us this is really
10 cool -- and --

11 VOICE: And it's getting colder, too.

12 (General laughter.)

13 MR. LENZ: -- and to our state's largest city,
14 Houston. It's a great city. And I'm envious of your
15 visits tomorrow. I think you're going to have a great
16 time. You're going to see engaged teachers and students,
17 and it's going to be informative.

18 It's an honor for me to have this opportunity
19 to share some of our experiences and observations and
20 ideas on the relationship between student achievement and
21 due process.

22 I, too, am honored to share this panel with

1 Jim. In fact, we haven't seen each other for quite some
2 time. And we talked just prior to coming here, and I
3 wasn't quite sure if we would refer to each other as
4 Plaintiff and Defendant, how we were going to do that.
5 But we remembered each other's name, so it worked out
6 okay.

7 (General laughter.)

8 MR. LENZ: I want to preface my comments by
9 stating that it is not my intention to insult your
10 intelligence by leading you to believe that I have all the
11 answers or that our state has it figured out.

12 Although we have made gains over the past 25-
13 plus years, we are not where we want to be throughout the
14 entire educational enterprise.

15 We work every day to move the whole system, as
16 Sharon said, the whole system in a positive direction for
17 students with disabilities.

18 In addition, I know you've had a long day,
19 because I've been here with you, and I will keep my
20 testimony brief to ensure an on-time adjournment.

21 And like Larry Gloeckler's mom, my dad said,
22 Never present to a group who has been sitting all day and

1 just before their reception.

2 (General laughter.)

3 MR. LENZ: When commission staff first called
4 me about offering invited testimony on the relationship
5 between student achievement and due process, my first
6 reaction was confusion and that the two topics are not
7 related.

8 However, after recovering from my initial panic
9 attack, and upon thoughtful reflection, I began to think
10 more rationally about the topics and concluded that the
11 relationship between student achievement and due process
12 is at the heart of the national debate regarding
13 reauthorization of the Individuals with Disabilities
14 Education Act, IDEA.

15 This topic reminds me of something that one of
16 my special ed professors once said: It's always true, but
17 when it's not. That is, there is a relationship, either
18 direct or indirect, between student achievement and due
19 process except when there's not.

20 Now, before I go much further, I want to call
21 your attention in your packet to a 40-plus page document
22 entitled "Excerpts from the Individuals with Disabilities

1 Education Act, Amendments of 1997 and 34 Code of Federal
2 Regulations, Part 300 Pertaining to Procedural Due
3 Process."

4 This document is formatted into a two-column
5 side-by-side with excerpts from IDEA -- that is, the Act
6 itself, what was signed into law June 4, 1997 -- in the
7 left-hand column, and then, the implementing Federal
8 regulations in the right-hand column.

9 The content of the two columns represent the
10 procedural due process requirements, or the easiest way
11 for me to always remember the meaning of these things,
12 these are the fairness provisions of IDEA. And they link
13 very cleanly, at least within the context of when it was
14 first developed, I guess, to the Fifth and Fourteenth
15 Amendments.

16 Instead of discussing the relationship between
17 student achievement and due process in abstract, I wanted
18 you to see the requirements that all states, school
19 districts, territories must implement.

20 In addition, it is important to note that the
21 procedural due process requirements, what you have in your
22 package here, do not represent all the process and all the

1 procedural requirements of IDEA. So just remember that.
2 That's 40-plus pages, and there's more.

3 Now, here's the following list. This list
4 represents a few of the reasons why I believe there is a
5 relationship between student achievement and due process.

6 Teaching the general curriculum to any student
7 requires time, attention, and effort. To do it well, you
8 have to be on your game.

9 General ed and special ed teachers consistently
10 report the daily struggle with competing priorities of
11 process -- that's paperwork, meetings, et cetera -- and
12 the provision of direct classroom instruction.

13 When implementation of the process detracts
14 from direct instruction, we all lose.

15 Complex processes compete, not only for
16 educator resource and energy, but for fiscal resources, as
17 well.

18 The national outcry for full funding of IDEA,
19 the 40 percent promise, is a twofold request relating
20 first to the high costs associated with educating students
21 with disabilities, and second to the visible and hidden
22 costs associated with complex process and procedure

1 implementation.

2 It is expensive to serve students with
3 disabilities well. However, if IDEA continues the uneven
4 balance between process and teaching and learning, 40
5 percent will not be enough.

6 Teacher shortage studies continue to indicate
7 salary is one of the top reasons shortages occur.
8 Recently -- our state has conducted a couple of these
9 things over the last few years. And recently, burnout,
10 job stress, paperwork, and the job's legal complexity have
11 emerged as barriers to retaining special ed teachers.

12 This next one is actually one of my most
13 favorite, because I think it gets at the heart of what
14 everybody has talked about up to this point.

15 As a general rule, and it truly has been our
16 experience as a general rule, parents do not complain when
17 their child is learning.

18 It has been our experience that many parents
19 only use the leverage provided in the statutes and
20 regulations when they believe their child is not learning
21 or is being harmed in some way, a form of protection, the
22 fairness provisions.

1 Now, the following list represents a few
2 reasons why I believe there is not a relationship between
3 student achievement and due process.

4 If you were to go to the campuses and they were
5 to actually open up all the filing cabinets and
6 everything, you might get a chance to look at one of the
7 folders. Okay? But my thought is, for confidentiality
8 reasons that will not take place.

9 But the point is, a student's folder can be a
10 procedural nightmare. There can be missing documents,
11 there can be missed time lines, et cetera, just the
12 following of the procedure.

13 But when you go down and talk to the teacher,
14 you find out that the teacher does have evidence of
15 student learning and that the parent is generally pleased
16 with what's going on in the classroom for their child.
17 Not a link.

18 From time to time, our hearing officers that
19 conduct due process hearings find procedural violations.
20 However, the violations don't prevent the student from
21 receiving a free appropriate public education.

22 Over the last year or so, we had our legal

1 staff check this. We had eight cases in which -- eight
2 hearing officers' decisions in which they found procedural
3 violations, but they ruled in favor of the district
4 because the child was receiving educational benefit.

5 Again, it's always true, but when it's not.
6 Based on our experiences and observations, I offer the
7 following general and specific recommendations for
8 Commission consideration relating to the relationship
9 between student achievement and due process.

10 In your handout it will be behind my testimony.
11 It's a two-page document, I believe.

12 Number 1: IDEA must focus educator time,
13 attention, and effort on what matters most, and that's
14 student results.

15 The competition for educator time, attention,
16 and effort is unevenly split between process
17 implementation and teaching and learning and results for
18 students.

19 Ask yourself the question, do you want folks,
20 that is, educators, chasing the process and the
21 procedures, or do you want them doing what Sharon Vaughn
22 put up on the screen, do you want them going through the

1 intervention models?

2 IDEA must be simplified and complexity
3 eliminated. Simple systems can help promote understanding
4 by all stakeholders of what matters most. Better
5 understanding of what matters most will promote
6 involvement, empowerment, and ultimately voluntary
7 compliance.

8 This item is critical because it not only
9 hampers not just what goes on at the classroom level,
10 the campus level, all the way up through the chain, but I
11 would suggest to you -- from a personal perspective, I
12 don't believe in bad people, I believe in bad systems.

13 And I would suggest to you that even our
14 colleagues at OCEP are trapped within this system, that
15 they would require the procedural document that Larry held
16 up. By the way, ours is larger. Okay? And Virginia
17 Beardrom [phonetic] from Louisiana, she could tell you how
18 big hers is.

19 You know, I guess the point is that, when it's
20 all said and done, the question is, how does this directly
21 relate to whether or not the child learned to read? Okay?

22 Now, IDEA must require, consistent with No

1 Child Left Behind Act, the establishment of a rigorous,
2 all-inclusive accountability system that is focused on
3 student performance and program effectiveness measures.

4 The strength of this recommendation is that it
5 provides clarity of purpose and focuses everyone's time
6 and attention and effort on improving student performance
7 and program accountability.

8 A rigorous accountability system built without
9 loopholes makes procedural protection less necessary.

10 Characteristics of the system must include:

11 Measures of student performance and program
12 effectiveness that include the establishment of yearly
13 stretch targets or goals across subgroups of students.

14 That is, you must disaggregate by race and ethnicity and
15 limited English proficiency and poverty.

16 Full disclosure and reporting of state,
17 district, and campus results to the public so that
18 everyone can make an informed choice, also disaggregated
19 across student groups.

20 Sanctions and interventions in states,
21 districts, and campuses when stretch targets and goals are
22 not met.

1 Continuous sanctions and interventions until
2 such time that the state, district, campus begin to show
3 progress toward those goals.

4 And then, ultimately it needs to tie into
5 what's happening in the state as a whole, and that is a
6 report the state, district, campus results to state, local
7 boards, legislators, governors, Congress, et cetera as it
8 relates to meeting those stretch goals and targets.

9 Serious consideration must be given to the
10 relationship between Section 504, specifically of the Code
11 of Federal Regulations Part 104, and IDEA, and whether or
12 not procedural protections of 504 provide an adequate
13 level of procedural due process only when matched with a
14 rigorous accountability system focused on student
15 performance and program effectiveness.

16 If the current process and procedural
17 requirements remain intact, then serious consideration
18 must be given to limited state waiver authority, almost
19 like IDEA-Flex -- we had ED-Flex under the old Title --
20 for the purpose of implementing innovative practices at
21 the local level when the community can all agree on what
22 that would take.

1 That is, you would want parents to be involved
2 in an activity like that.

3 Now, specific recommendations. And I guess I
4 looked at this presentation -- I can't deny the fact that,
5 the way this day has gone, it's been an incredible day,
6 whether I was presenting or not. I guess I thank the
7 staff for inviting me. Because to get to hear Dan and
8 Sharon and everybody that has presented, it's just been
9 incredible.

10 So I offer these specific recommendations,
11 because it seems like every time you guys start asking
12 questions, you start asking, Well, okay, where? Point to
13 it, show us.

14 So I offer these specific recommendations only
15 to jump-start the dialogue, the discussion. Because I'm
16 just one person working in a relatively small agency in
17 the second largest state in the country, and there's a lot
18 of people out there that have really great ideas. And I
19 think over time you'll hear some of them as you go around
20 the country.

21 Now, specifically what you have on this page
22 represents -- it's a side-by-side, almost like a T graph

1 or a T chart in which on the left-hand side of the page
2 you have the specific requirements of procedural due
3 process that is contained within Section 615 of the actual
4 statute. These are the highlighted areas or the main
5 topics.

6 And then, on the right side you see some of the
7 recommendations.

8 One of the procedural due process requirements
9 or rights is the right to examine all records. We don't
10 disagree with that. However, we believe it needs to be
11 eliminated because it's a duplication to a large extent of
12 the requirements or regulations that are already contained
13 in FERPA, and that is the Family Education Rights and
14 Privacy Act.

15 Now, from the standpoint of simplification,
16 let's say that there are a few nuances in IDEA related to
17 confidentiality and the right to examine records that are
18 just a few above and beyond what's in FERPA.

19 What could be simpler than to have everybody
20 clearly understand that you treat kids with disabilities
21 the way you would everybody else with these unique
22 exceptions? Try to simplify the system so everybody

1 clearly understands.

2 But when you have two very long passages of
3 regulation and requirement that in many cases duplicate
4 each other, confusion reigns.

5 Participation in meetings. It fundamentally is
6 critical that parents are at the table when decisions are
7 made about their kids.

8 However, we would like to see or allow for
9 certain issues -- and just one example -- there are many
10 others -- but one example, such as a simple schedule
11 change, particularly at the high school level, that there
12 would be -- that parents and school districts could
13 resolve that in less formal ways than calling a formal IEP
14 meeting with notice and all the other stuff that go along
15 with it.

16 Independent Educational Evaluation. Allow
17 parents and school districts to reach agreement on partial
18 or full or partial evaluations instead of the whole
19 enchilada. Find out exactly what is wrong and try to
20 address that particular issue.

21 Surrogate parents, no recommendation.

22 Prior notice and Native language. It's

1 critically important that whatever product we give to the
2 parents so that they can participate in the process, that
3 they clearly understand what is being done.

4 The issue of native language is really a non-
5 negotiable. They have to understand. And whether it's
6 done in writing or whether it's done orally through an
7 interpreter, parents have to clearly know what's going to
8 take place.

9 Procedural safeguards notice. The
10 recommendation here is to replace the multiple
11 distributions of a minimum compliance brochure with a
12 quality document given once at initial referral or however
13 the process works in the future, and then each time the
14 document is revised or if the parent requests an extra
15 copy, just as, you know, Larry held up the one product.

16 A few years back -- and like I said, this is
17 not about people, this is about bad systems and bad
18 procedures.

19 Our state once had a very high quality
20 document, a parent rights document that we gave to parents
21 once, got a receipt for it, that receipt went in the
22 folder.

1 We had negotiated in good faith with the OCEP
2 staff on that product. They even helped write portions of
3 it so that we could get it out of their clearance process
4 and start to print it and send it out.

5 And because of the nature of the procedures and
6 the rules and the regs and all that kind of stuff, we get
7 it out of clearance in December; we print thousands and
8 thousands of copies in English, Spanish, Vietnamese; we do
9 tapes in Spanish and Vietnamese, English, Braille -- you
10 know, a Braille book of your rights is pretty big, it
11 usually comes in on a cart -- we did all of that.

12 And at the same time all that material was
13 being delivered, OCEP was monitoring us, and they cited
14 the document. One, there were errors and omissions that
15 needed correction, and we weren't giving it out enough.

16 Now, this was a 30-, 35-page document, multi-
17 colored, very nice, and it contained a lot of good
18 information, but it didn't meet the standard.

19 And so we had to make a choice based on a
20 variety of factors, and we opted to go with the brochure
21 that was recommended by OCEP and that other states had
22 adopted. I think we lost something when we made that

1 decision.

2 Now, thank God for our advocacy community,
3 because they passed a law a couple sessions ago that said,
4 Bring the book back. We don't care what Washington says.
5 We want you to do a high quality book that helps parents
6 understand the rights and responsibilities under IDEA
7 related to the IEP process. So we're finishing that up,
8 as well.

9 Consent. Ultimately we need clarity or we need
10 to clarify current confusion related to the parent's right
11 to refuse consent for initial services, the district's
12 obligation to service all eligible students and the use of
13 the due process hearing to override parental refusal.

14 Right now we can go to hearing -- the
15 interpretation is, we can go to hearing to override a
16 parent's refusal to consent for assessment, but when you
17 get to initial services, can no longer use that
18 methodology.

19 And the district is sitting out there going,
20 We've still got to serve this student, but yet we don't
21 have permission to serve them through special ed, so we
22 have to come up with another way. And yet they're still

1 going to be held accountable for an eligible student that
2 they need to provide services for.

3 Mediation. Mediation works and must be the
4 foundation of any conflict resolution solution.

5 We've had really good success here. Long
6 before it became a requirement in IDEA, our state has been
7 using this system, and we've had good results in
8 relationship to the number of due process hearings that
9 are mediated and do not go to a hearing officer decision.

10 Impartial due process hearings. I can't deny
11 the fact when I was asked to speak on this topic my brain
12 went immediately to student achievement and due process
13 hearings.

14 Well, the due process hearing is just one
15 mechanism by which you exercise your procedural due
16 process rights for fairness.

17 But this is the high profile right in this list
18 that I just mentioned. This is the one that, in Texas the
19 average cost to a school district to go from being put on
20 notice and taking it to a hearing officer's decision,
21 somewhere around \$50,000, maybe a little higher, depending
22 upon witnesses and things of that nature.

1 I can't even imagine the cost to a family and
2 how they try to proceed down that road.

3 I've got two recommendations here. I think I'd
4 like to take the second one first and then talk a little
5 bit about the first one.

6 In an effort to focus everyone's attention on
7 what matters most, that is, student learning, the
8 recommendation is to limit requests for due process
9 hearings to educational benefit, that is, student
10 performance issues, and shift all allegations of
11 procedural due process to state complaint management
12 systems.

13 Now, the other recommendation is just something
14 that we've recognized in Texas, and I can't speak that
15 this occurs in any other state. But let me talk to you
16 about the recommendation, then I'll mention -- okay.

17 In an effort to encourage and support the
18 resolution of any dispute at the lowest level possible,
19 provide for the use of a presentment requirement that
20 would not allow any issue to be raised at a due process
21 hearing unless it was first raised at an IEP committee
22 meeting.

1 Hearing officers would dismiss any hearing
2 request upon satisfactory proof that the issues raised in
3 the hearing were not first presented to the IEP committee.

4 We don't want parents surprised. Parents
5 should not ever, ever, when it comes to their child,
6 experience, Got you, or, Surprise, we're doing this to
7 your child. That's the purpose of many of these issues.

8 The same should be true for a school district
9 in the sense that a school district seems to think
10 everything is rocking and rolling along pretty well, and
11 then, because of the statute and the regs, a parent can go
12 directly to a due process hearing.

13 In Texas it's not unusual that the district at
14 that prehearing conference will agree to provide the
15 service that the parent is requesting. And then they're
16 handed a bill for legal services because the parent's
17 attorney and the parent prevailed, even though the
18 district probably would have provided it had the parent
19 first come to them without going to a hearing.

20 Now, you know, can we play that game -- can we
21 reverse it? Sure. But we've had quite a few hearings --
22 quite a few of our hearings are settled or dropped, and

1 many of the settlements, superintendent, district just
2 didn't know.

3 Transfer of rights at age of majority, no
4 recommendation at this time.

5 And then, last but not least, this last item
6 here has to do with discipline. And one recommendation
7 would be, spend one meeting on that alone. No. I'm
8 kidding.

9 The discipline section of IDEA, both in the
10 statute and the reg, requires massive simplification, with
11 priority clarification to the differentiation between
12 behavioral concerns requiring instructional interventions
13 versus disciplinary action.

14 You've heard folks sitting here this morning
15 talking about when a child doesn't demonstrate the ability
16 to read, doesn't have those skill sets, to put them all
17 together to comprehend the written word, what's the first
18 thing we think about? We try to teach them to read.

19 When a child with a disability doesn't behave,
20 doesn't bring those skill sets to the instructional
21 setting to behave, we're more likely to punish, to
22 discipline.

1 We have to make a clear distinction between
2 those kids that need behavior intervention as an
3 instructional issue versus a discipline issue.

4 You can see from my recommendations that I
5 would like to see some minor and major changes to IDEA. I
6 believe we need these changes and others because we must
7 take services for students with disabilities to the next
8 level of educational accountability focused on teaching
9 and learning and meaningful post-secondary results,
10 college, employment, independent living.

11 If significant changes are not made, the
12 special ed system will continue to add more process and
13 procedures, require large amounts of money to chase
14 process, and only have limited student achievement and
15 post-secondary results to show for all of our collective
16 efforts.

17 I also live in the real world, and I understand
18 that many stakeholders believe that IDEA must not be
19 changed, just fully implemented at the Federal, state, and
20 local level.

21 I recognize that we have major trust issues
22 that must be addressed for all stakeholders before they

1 will legitimately agree to trade -- and I hate the word,
2 trade -- but would agree to accept true accountability for
3 student results for less process.

4 And when I'm talking about stakeholders, I'm
5 not just talking about parents and advocates. I'm talking
6 about the entire enterprise.

7 Because I have to tell you, special ed is one
8 of those few professions that there is a good chance as
9 you guys work through this problem you are going to find
10 special educators some of the toughest to work with on it.

11 We're a bunch that, when things go bad, we're
12 more likely to circle the wagons and shoot in. So --

13 (General laughter.)

14 MR. LENZ: People, we have this real bad habit,
15 and we've been doing it for 25 years. We become the
16 process. We become the procedure instead of the result.

17 I want to thank you for the opportunity to
18 visit with you about these very important issues.

19 I leave you with the following quotes to keep
20 in the back of your collective minds during your journey
21 to make recommendations that will improve educational
22 services and results for students with disabilities:

1 The founder of Visa, Dee Hock, once said, "Have
2 a simple, clear purpose which gives rise to complex,
3 intelligent behavior, rather than complex rules and
4 regulations that give rise to simplistic thinking and
5 stupid behavior."

6 "Progress is not doing better what should not
7 be done at all."

8 And then, lastly, "Those that say it can't be
9 done are generally interrupted by those doing it."

10 And then, I guess if I can give you a Texas
11 one: Why did the chicken cross the road? To prove to the
12 armadillo it could be done.

13 (General laughter.)

14 MR. LENZ: I know. For the Texans in the room,
15 they'll understand.

16 (General laughter.)

17 MR BRANSTAD: Thank you very much.

18 (Applause.)

19 MR BRANSTAD: We are going to have questions
20 and answers. But we are intending to be done with the
21 questions and answers at 5:30.

22 So we'll start out with Adela Acosta.

1 MS. ACOSTA: Well, I want to thank Jim and
2 Larry for ending us the way we started today, excited and
3 comprehensive.

4 And I have to say, I was talking in the back
5 with Christopher, and we were both saying that we have to
6 commend President Bush for convening this Commission.
7 It's an awesome task. And as we hear more testimony, it
8 becomes very clear to me how awesome it is.

9 And there are many stakeholders. And I heard
10 the word, empowerment and voluntary compliance, I heard,
11 accountability that is reasonable, timely, and evidence
12 based. And no one here will argue with that.

13 I just wanted to -- I can't go away from this
14 table without one word about accountability. There is no
15 one around this table that will disagree with high-stake
16 accountability.

17 We want to make sure, however, Jim, that when
18 we look at graduated consequences for noncompliance, that
19 we understand what the true responsibility of the
20 stakeholders are. I agree with you.

21 However, the one voice that I wanted to shout
22 out is that principals' failure oftentimes lie above the

1 schoolhouse to support kids.

2 So sanctioning just principals -- and I'm being
3 sensitive here because I'm a principal. But speaking for
4 the generals in the field, it is often -- I have a real
5 example. I have one teacher with 45 special ed kids in my
6 building, and she has a part-time aid.

7 So no one wants my kids to succeed more than I,
8 but it's unfortunately not in my hands.

9 So now, the question is, after I've said all of
10 that, how do you address, then, the lack of substantial
11 resources in teachers and its impact on student
12 achievement?

13 MR. COMSTOCK-GALAGAN: Actually, I address it
14 as follows. I think we have a lot of resources right now
15 that are structured as follows: This is regular
16 education, this is special education. This is what it is.
17 This is regular, this is special. You know what it should
18 look like? It should look like this.

19 We don't need millions of more dollars. We
20 need allocation of resources into regular settings, as we
21 heard this morning. We need to bring resources into
22 regular settings, create small pupil-teacher, pupil-

1 instructor settings, and we can do that with the vast
2 majority of special education resources we have.

3 Special ed should fit like a glove on regular
4 education, like a glove. It should never be considered a
5 separate hand. It is the glove that fits on regular
6 education. That is not the case in this country.

7 My wife, Charleen, ran an inclusion project in
8 St. Charles Parish, which is across the river from New
9 Orleans in Louisiana. Not one special education teacher
10 at an elementary school level had a special education
11 classroom. That was revolutionary.

12 We see special education as a placement. It's
13 a classroom. All special ed teachers worked in regular
14 ed. All paraprofessionals and aids worked in regular ed.
15 It fit over regular education.

16 They eliminated all special education
17 classrooms and worked with kids in regular education for
18 kids with high-incidence disabilities, high-incidence,
19 that program, those kids succeeded. In her school they
20 all succeeded in regular education, every single one.

21 And it didn't require millions in new
22 resources. They took the resources in the building, moved

1 them into regular settings. There's a lot of resources we
2 have in our building that are segregated.

3 And you know, I will say this. I've been in
4 this 25 years. People want to know what this is really
5 all about, if this is really good for kids, all this
6 segregation.

7 Talk to the kids in the schools about kids in
8 special ed, just talk to them. Talk to children about the
9 message we send every day about kids who are down the
10 hall, in the portable, in these segregated classrooms. It
11 will make you cry.

12 We think it's all right as adults. But you
13 know, children have to live with their peers every day.
14 And you know what? Their peers say, They don't learn
15 right, they're stupid, they're not smart, they've got
16 problems. What a message we send every day in our
17 schools.

18 And then, you know what? My wife taught, when
19 she first came out of Vanderbilt and Peabody in 1978, she
20 taught in a self-contained classroom for five years.

21 The next people we ought to ask are, ask the
22 special education teachers whether they really feel a part

1 of most schools they teach in. Ask them. It's deja vu
2 all over again as with the children.

3 My wife taught in a school district in Kenner,
4 Louisiana where all people ever said to her is how
5 grateful they could send their kids to her. She never
6 felt a part of that school.

7 Three special education classrooms, she only
8 felt a part of being with those two other teachers,
9 because they weren't considered a fundamental valued part
10 of that school. And it is true all over this country.

11 If children feel like this, if teachers feel
12 like this, it cannot be working. And it's no way to raise
13 our children in this country, telling them there's some
14 definitive group of kids almost in every school who don't
15 learn right, got problems, and like, wow, you know, hey,
16 these kids are much different than us.

17 We used to make those statements on the basis
18 of race and sex. We still make them on the basis of
19 disabilities, whether we intend them or not. It's not
20 done deliberately.

21 But just talk to children and teachers. It's
22 very clear what happens by running a system this way, very

1 clear.

2 My daughter came home when she was six years
3 old -- I will never forget this -- and talked to me about
4 how these kids -- they had kids in her school with
5 wheelchairs.

6 And I said, Where are all those kids? And she
7 said to me, Well, there must be something wrong about the
8 way that they learn, because they're down in another
9 classroom. Something wrong about the way they learn; six
10 years old. You know, she doesn't believe that today, but
11 what a statement.

12 You know, I go into schools when I represent
13 families, and I talk to students to see what the impact is
14 of where my client resides. And it's always profound.
15 And we have methods, as we've heard all day today, to keep
16 kids in regular settings.

17 The model that I propose looks at the real
18 issues and tries to keep kids in those settings where
19 they're going to progress, where there are going to be
20 outcomes. Kids are much more likely to get progress and
21 outcomes in regular settings. So I mean, that's what I
22 say.

1 And again, I'm not here to dump on principals.
2 I'm a big believer in educators, I'm a big believer in
3 administrators, and I mean that.

4 I'm just saying, at some point we have to look
5 at, why are schools failing, where is it? And somebody
6 has to be held accountable.

7 MR BRANSTAD: Okay. Steve Bartlett is next.

8 MR. BARTLETT: Gene, is the State of Texas, in
9 your opinion, or how many other states, prepared to be
10 held accountable for graduation rates, TAAS scores of
11 disabled students, and degree of integration?

12 MR. LENZ: It's an interesting question that
13 you ask, because I think I believe, yes, we are in Texas.
14 And let me just tell you a couple reasons why I believe
15 that.

16 First, TAAS scores today, for kids with
17 disabilities that take the TAAS, count in campus and
18 district ratings today. So if a campus is rated
19 exemplary, recognized, or acceptable or low performing,
20 kids with disabilities, their scores count there.

21 In about a year-and-a-half from now our
22 alternative test, the results of that will be factored

1 into district accountability scores and ratings.

2 So we're moving in that direction, graduation
3 rates, drop-out rates, TAAS accountability, alternative
4 system accountability.

5 We are putting into place this year -- to
6 borrow a performance measurement tool from business, we've
7 been constructing a balance scorecard for special ed. And
8 the power of the balance scorecard -- it's out of the work
9 that's been done by Norton & Kaplan out of Harvard.

10 And the balance scorecard basically takes a
11 look at performance measurement in a different way, and
12 we're looking at it from different perspectives,
13 stakeholder perspective, implementer perspective, customer
14 perspective.

15 Why do we exist? What matters most? What's
16 the most important thing? And ultimately I think that's
17 what needs to drive the system. Right now, as Larry said,
18 you get to a point where everything has equal value.

19 And you know, I don't know how many here in
20 this room know this or not, but if you ever get a
21 chance -- I'm not even going to tell you what it says.

22 But I want you, if you get a chance, you look

1 up 300.350 in the Code of Federal Regulations. Okay?

2 It's about accountability for student learning. And you
3 decide what's most important. All right?

4 Is it the process, the procedure, the way in
5 which it was done, or is it the what? That is, did we
6 really -- are students going to be employed and productive
7 citizens once they leave the public schools? I don't
8 think that we have much of a choice.

9 Now, how many states are ready to do this? I
10 know for a fact the folks that I work with on a regular
11 basis, the seven largest states meet twice a year, we're
12 ready.

13 I meet with states in my region that goes from
14 Oklahoma, Texas, Arkansas, Louisiana, Mississippi,
15 Alabama, Florida, Georgia, Puerto Rico, and the Virgin
16 Islands. Those directors are ready.

17 I think we can't deny the fact if we've been
18 doing this a long time, to judge whether or not we've
19 crested that fairness mountain, that true accountability
20 systems will worry only about the result and not so much
21 how we got there, we have decades of our kids being abused
22 or tormented or treated unfairly in the system. So there

1 is a balance that we have to strike.

2 But the question is, right now one could argue
3 we have accountability, maybe like this, and it's for
4 dotting I's and crossing T's, and not as much
5 accountability for student results.

6 And what we have to do is bring these things
7 down and put them in their proper perspective so that we
8 truly focus on what matters most. Because until we focus
9 on what matters most, everybody kind of runs around
10 aimlessly doing their own thing.

11 Teachers aren't focused in the classroom;
12 higher ed teaches whatever it wants because it's trying to
13 prepare people for whatever is out there, which could be
14 anything. Principals try to figure out, how do kids truly
15 fit on my campus?

16 When you go to a campus, you ask the principal,
17 How many kids do you have? You know, the principal gives
18 you the whole number right off the bat and doesn't break
19 it out by, Well, I've got 400 regular kids, and I've got
20 75 special ed kids. You know that that's a fairly
21 inclusive campus, that they're really trying to do things
22 that matter to all the kids.

1 So I think we don't really have much of a
2 choice. Let's pretend no states were ready, but I think
3 from the evidence that you saw, Larry is already on his
4 way.

5 We're moving in that direction; we're not where
6 he is. California is moving in that direction; Florida is
7 moving in that direction; Bob's home state, New Mexico, is
8 moving in that direction; Virginia Beardrom from
9 Louisiana, who is in the audience, she is moving in that
10 direction.

11 Everybody is trying to identify those key
12 performance measures that really target the things that
13 matter most, not just to educators, but to parents and to
14 families, and to try and work toward those goals.

15 MR. COMSTOCK-GALAGAN: And can I say that, all
16 the states that Gene just mentioned are all moving towards
17 focused monitoring models where monitoring activities are
18 directed by data and what we call performance profiles,
19 profiles on districts on key data indicators.

20 So that we're directing limited monitoring
21 resources to where the greatest needs are and trying to
22 get a much broader bang for our dollars that we spend. I

1 think it is important to say that.

2 MR BRANSTAD: Doug Gill.

3 DR. GILL: Okay. In the interests of time and
4 in the spirit of shooting outward, I want to ask each of
5 you the same question, and you can give me a one-word
6 response, and I hope you do.

7 (General laughter.)

8 DR. GILL: Can program performance/outcome data
9 suffice for compliance monitoring?

10 MR. COMSTOCK-GALAGAN: Yes.

11 DR. GILL: Okay. Thank you.

12 MR. COMSTOCK-GALAGAN: Yes.

13 DR. GILL: Gene?

14 MR. LENZ: Yes. With a different statute.

15 Right now? No. The statute basically says this. You can
16 go to the statute, I think it's Section 612-something, and
17 you can go to the reg at 300.600, and it says, The State
18 will assure that all requirements of this Part are
19 implemented.

20 DR. GILL: I need to ask that again. Can
21 program performance/outcome data suffice for compliance
22 monitoring, regardless of the statute? That's really the

1 question.

2 MR. LENZ: Yes.

3 MR. COMSTOCK-GALAGAN: Yes.

4 MR. LENZ: Yes.

5 DR. GILL: Okay. Thanks.

6 MR. COMSTOCK-GALAGAN: Before we leave, I
7 wanted to say one thing about procedural compliance, and I
8 hope you will afford me that liberty.

9 As a lawyer I represent a lot of parents. And
10 the one thing at least they think they have is they have
11 the procedural issues.

12 The reason they're so important to parents is
13 because they feel at least they have that. They don't
14 have LRE, they don't have good graduation, they don't have
15 good transition for their kids. The only thing they feel
16 they have are the procedural protections.

17 I think what Gene and many of the speakers have
18 said today is right. The reason this procedural stuff is
19 so important is because parents feel they don't have all
20 the substantive issues. They're trying to hold on to at
21 least something.

22 And so I think if you can help ensure real

1 accountabilities on these other issues, there won't be
2 such a desperate clinging to all of the procedural issues.

3 Some of them are very important and I don't
4 think should ever be surrendered. But as you develop more
5 accountability and parents feel they have more of the
6 substantive issues, some of these procedural issues become
7 less important. But when it's all you have, it's hard to
8 give that up.

9 MR BRANSTAD: Doug Hunt.

10 DR. HUNTT: Thank you, Mr. Chairman. I made
11 the mistake before lunch of telling you all that I'm used
12 to hearing the word no. So when I tried to respond to the
13 last presenter, Todd blew me off and I couldn't ask
14 questions.

15 (General laughter.)

16 DR. HUNTT: And I think I barely --

17 VOICE: We don't want to do that again. And
18 we're getting short on time.

19 DR. HUNTT: I barely made the cut. I know
20 that. And I was going to go with bad self-esteem if that
21 happened.

22 I agree with you, Jim, that special ed and

1 general education need to fit hand in glove.

2 My question for you is, since it seems that the
3 Administration is pushing to focus resources on those in
4 general education that succeed, how does your model fit,
5 then? Because your resources go to those who aren't being
6 successful.

7 MR. COMSTOCK-GALAGAN: My resources are tied
8 to, no child gets left behind, that it is important in
9 this country that all schools and all districts succeed
10 for children.

11 And if districts are already succeeding, I
12 believe in certainly highlighting, trumpeting, championing
13 those districts, figuring out ways to reward them.

14 But if we're really going to leave no child
15 behind, then, we have to really to put -- and I'm not
16 saying money -- it may require some money, I'm not saying
17 no -- but we have to redirect resources from monitoring on
18 down to schools that are not working for children so
19 really no child does get left behind.

20 MR BRANSTAD: Folks, it's 5:30, and there's a
21 reception at 6:00. There are two people left on the
22 question list. It's your choice, Jack, Cherie.

1 VOICE: Why don't you ask the question?

2 MR BRANSTAD: Okay. Go ahead. Let's try to
3 keep it as succinct as we can.

4 MS. TAKEMOTO: And this is an important
5 question, because in the accountability measures you're
6 looking at progress across schools. You can make great
7 progress across schools and totally ignore people with
8 low-incidence disabilities. That's one point.

9 The other point is, I've listened to too many
10 parents who have gone to due process where it hasn't
11 been -- it's been about incurring education benefit. Your
12 child will not benefit from assistive technology. He's
13 not going to do anything with it.

14 So can you speak to that? Because that's a
15 very important question that I think that I would really
16 like for you guys to address.

17 MR. COMSTOCK-GALAGAN: Okay. In the model that
18 is in your packet -- and thank you for raising that. The
19 model that I talked about today has three sets of kids you
20 look at under all the critical criteria, LRE, graduation,
21 whatever.

22 The first group is kids with high-incidence

1 disabilities; the second is kids with low-incidence
2 disabilities.

3 You break them out, because like in LRE, if
4 they only make up 15 percent of the district, the numbers
5 of the other 85 percent can actually mask what's going on
6 with the 15 percent of the low-incidence kids. So you
7 have to break out high and low incidence under these
8 categories.

9 And we also broke out kids with emotional
10 disturbance, because we've got to get a better handle on
11 serving these kids. We just have to get a better handle
12 on them.

13 There are far too many kids in our schools who
14 are considered emotionally disturbed, and we just can't
15 let them all end up out on the streets. It's not in the
16 interests of our communities.

17 What can we do? We heard ideas today about
18 intervening earlier to try to prevent it in the first
19 place. Prevention is a huge issue. But also, look at
20 these rates for ED kids to see what we can do to help
21 them.

22 So three different categories of kids in the

1 model.

2 MR. LENZ: Yes. And I would agree with Jim. I
3 think, whatever accountability system you develop, you
4 have to be sensitive to the full population we serve. I
5 mean, 12, 13 different disability categories, ranges
6 within those categories. And we want all kids to succeed.

7 So you have to be sophisticated in how you come
8 up with measurements of performance, not only at the
9 student level, but also at the program level.

10 And it may make our work more difficult, but
11 it's the better way to go. It's the kind of work we
12 should be doing.

13 MR BRANSTAD: Okay. Jack Fletcher gets to ask
14 the last question this afternoon.

15 DR. FLETCHER: Mr. Comstock-Galagan, in your
16 comments about FRE, are you saying that no pull-out
17 intervention should ever be done with a child, that they
18 should all be done in the context of the regular classroom
19 environment?

20 MR. COMSTOCK-GALAGAN: No. I'm not saying it
21 should never be done. What I'm saying is that the
22 pendulum has swung so far to where it's done on a routine

1 basis for the vast majority of kids that we need to move
2 the pendulum back to where routinely kids are served with
3 appropriate resources and supports in regular education.

4 I'm not saying no kid should ever be served in
5 a pull-out program.

6 DR. FLETCHER: So essentially you don't have a
7 problem with Dr. Vaughn's idea of small group supplemental
8 instruction --

9 MR. COMSTOCK-GALAGAN: Absolutely not.

10 DR. FLETCHER: -- for kids with reading
11 problems, for example?

12 MR. COMSTOCK-GALAGAN: No, I do not.

13 DR. FLETCHER: And nothing that you've said
14 really precludes that sort of intervention.

15 MR. COMSTOCK-GALAGAN: Right.

16 DR. FLETCHER: Thank you.

17 MR BRANSTAD: Okay. I want to thank our
18 presenters. I want to thank all of you on the panel.

19 (Applause.)

20 MR BRANSTAD: And just a few brief
21 announcements before we close.

22 First of all, we'd ask you to take your

1 material with you.

2 There will be a reception on the First Floor at
3 six o'clock, at 6:00 p.m. You must be a Commission
4 member, witness, or have an invitation to attend. It is a
5 privately sponsored event for local ETI invited parents
6 and families.

7 Also a reminder to the spectators to leave your
8 badges for use tomorrow. Leave them at the check-out desk
9 out front.

10 And again, thank you all for your participation
11 and for your cooperation today.

12 (Whereas, at 5:40 p.m., the hearing was
13 adjourned, to reconvene Tuesday, February 26, 2002.)

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C E R T I F I C A T E

MEETING OF: President's Commission on Excellence

in Special Education

LOCATION: Houston, Texas

DATE: February 25, 2002

I do hereby certify that the foregoing pages,
numbers 1 through 329, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Sue J. Brindley before the
U.S. Department of Education.

03/11/2002

Pamela A. Smith

(Transcriber)

(Date)